93d Congress
1st Session

COMMITTEE PRINT

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

MATERIAL RELATING TO THE PROPOSAL OF THE ADMINISTRATION ENTITLED THE "TRADE REFORM ACT OF 1973"

TRANSMITTED TO THE CONGRESS ON MARCH 10, 1975

INCLUDING

TEXT OF THE PROPOSED BILL, SUMMARY, SECTION-BY-SECTION ANALYSIS

AND

PRESS RELEASE ANNOUNCING PUBLIC HEARINGS TO BE CONDUCTED BY THE COMMITTEE ON WAYS AND MEANS

BEGINNING ON MAY 7, 1973

NOTE: This material is printed for information only so as to make it generally available, and is not to be construed as the statement or position of the Committee on Ways and Means or any member thereof.

U.S. GOVERNMENT PRINTING OFFICE

93-290 O WASHINGTON : 1973

COMMITTEE ON WAYS AND MEANS

WILBUR D. MILLS, Arkansas, *Chairman*

AL ULLMAN, Oregon
JAMES A. BURKE, Massachusetts
MARTHA W. GRIFFITHS, Michigan
DAN ROSTENKOWSKI, Illinois
PHIL M. LANDRUM, Georgia
CHARLES A. VANIK, Ohio
RICHARD H. FULTON, Tennessee
OMAR BURLESON, Texas
JAMES C. CORMAN, California
WILLIAM J. GREEN, Pennsylvania
SAM M. GIBBONS, Florida
HUGH L. CAREY, New York
JOE D. WAGGONNER, JR., Louisiana
JOSEPH E. KARTH, Minnesota

HERMAN T. SCHNEEBELI, Pennsylvania
HAROLD R. COLLIER, Illinois
JOEL T. BROYHILL, Virginia
BARBER B. CONABLE, JR., New York
CHARLES E. CHAMBERLAIN, Michigan
JERRY L. PETTIS, California
JOHN J. DUNCAN, Tennessee
DONALD G. BROTZMAN, Colorado
DONALD D. CLANCY, Ohio
BILL ARCHER, Texas

JOHN M. MARTIN, Jr., *Chief Counsel*
J. P. BAKER, *Assistant Chief Counsel*
RICHARD C. WILBUR, *Minority Counsel*

THE "TRADE REFORM ACT OF 1973"

CONTENTS

PRESS RELEASE

FOR THE PRESS
FOR IMMEDIATE RELEASE
NOON, TUESDAY, APRIL 10, 1973

COMMITTEE ON WAYS AND MEANS PR#4
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
TELEPHONE: (202)225-3625

CHAIRMAN WILBUR D. MILLS (D., ARK.), COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES PUBLIC HEARINGS TO BEGIN ON MONDAY, MAY 7, 1973, ON ADMINISTRATION PROPOSALS RELATING TO FOREIGN TRADE AND TARIFF AND ON ALL OTHER PROPOSALS PENDING BEFORE COMMITTEE ON THESE SUBJECTS

Chairman Wilbur D. Mills (D., Ark.), Committee on Ways and Means, U.S. House of Representatives, today announced that the Committee on Ways and Means would begin public hearings on Monday, May 7, 1973, on the Administration proposals, submitted to the Congress today, relating to foreign trade and tariff matters, and on all other legislative proposals pending before the Committee to amend the tariff and trade laws. The language of the Administration proposal ("The Trade Reform Act of 1973") as well as an analysis and summary thereof is attached to this press release.

The leadoff witnesses will be representatives of the Administration who will testify during the first several days of these public hearings and will include the Secretaries of Treasury, State, Commerce, Labor, Agriculture, Interior, Special Representative for Trade Negotiations, Executive Director of Council on International Economic Policy, and Chairman of Council of Economic Advisers.

Testimony from the general public will begin on Monday, May 14, 1973.

Details for Submission by Interested Public of Requests To Be Heard

Cutoff Date for Requests to be Heard.—Requests to be heard must be submitted by *no later than the close of business Friday, April 27, 1973. All requests should be submitted to:*

John M. Martin, Jr.
Chief Counsel
Committee on Ways and Means
1102 Longworth House Office Bldg.
Washington, D.C. 20515
Telephone: (202) 225-3625

Notification will be made as promptly as possible after this cutoff date as to when witnesses have been scheduled to appear. Once the witness has been advised of his date of appearance, it is not possible for this date to be changed. If a witness finds that he cannot appear

on that day, he may wish to either substitute another spokesman in his stead or file a written statement for the record of the hearing in lieu of a personal appearance, *because under no circumstance will the date of an appearance be changed.*

Coordination of Testimony.—In view of the overall heavy legislative schedule of the Committee for this session of the Congress and thus the limited amount of time that can be set aside by the Committee in which to complete this hearing, it is requested and it is most important that all persons and organizations with the same general interest designate one spokesman to represent them so as to conserve the time of the Committee and the other witnesses, prevent repetition and assure that all aspects of the subjects being discussed at these hearings can be given appropriate attention.

The Committee will be pleased to receive from any interested organization or person a written statement for consideration for inclusion in the printed record of the hearing in lieu of a personal appearance. These statements will be given the same full consideration as though the statements had been presented in person.

Allocation of Time of Witnesses.—Because of the heavy legislative schedule of the Committee, which will limit the total time available to the Committee in which to conduct these hearings, and to assure fairness to all witnesses and all points of view, it will be necessary to allocate time to witnesses for the presentation of their own direct oral testimony. If the witness wishes to present a long and detailed statement to the Committee, it will be necessary for him to confine his oral presentation to a summary of his views while submitting a detailed written statement for the Committee members' consideration and review. Such additional written statements will be included in the record of these hearings.

Contents of Requests to be Heard.—The request to be heard *must* contain the following information, otherwise delay may result in the proper processing of a request:

(1) the name, full address and capacity in which the witness will appear;

(2) the list of persons or organizations the witness represents and in the case of associations and organizations their address or addresses, their total membership and where possible a membership list;

(3) if a witness wishes to make a statement on his own behalf, he must still nevertheless indicate whether he has any specific clients who have an interest in the subject, or in the alternative, he must indicate that he does not represent any clients having an interest in the subject he will be discussing;

(4) the amount of time the witness desires in which to present his own direct oral testimony (answers to questions of Committee members are, of course, not to be included in the time the witness may request);

(5) if the witness is testifying on any specific proposal or proposals, an indication of whether or not he is supporting or opposing such proposal or proposals; and

(6) a topical outline or summary of the comments and recommendations which the witness proposes to make.

Submission of Prepared Written Statements by Witnesses Making Personal Appearances.—With respect to oral testimony, the rules of the Committee require that prepared statements be submitted to the Committee office no later than 48 hours prior to the scheduled appearance of the witness. Seventy-five (75) copies of the written statements would be required in this instance; an additional seventy-five (75) may be submitted for distribution to the press and the interested public on the witness' date of appearance.

Submission of Written Statements for the Printed Record instead of Appearing in Person.—Any interested organization or person may submit a written statement in lieu of a personal appearance for consideration for inclusion in the printed record of these hearings. Such statements should be submitted by a date to be specified later, in triplicate. In any event, such written statements will be accepted by the Committee during the entire course of these hearings. An additional seventy-five (75) copies of written statements for the printed record will be accepted for distribution to the press and the interested public if submitted before the final day of the public hearings.

Format of All Written Statements.—It is very important that all prepared statements contain a *summary* of the testimony and recommendations and that throughout the statement itself pertinent subject headings be used.

Re-submission of Requests to be Heard Where Request Already Made.—If a prospective witness has already submitted a request to be heard on any of the subjects covered by this hearing, it is now at this time necessary to re-submit the request if the individual or organization is still interested in appearing in person, furnishing the above information and otherwise conforming to the rules set forth for conducting these hearings.

SUMMARY OF TRADE REFORM ACT OF 1973

Title I—AUTHORITY FOR NEW NEGOTIATIONS

Title I contains the basic authorities required for trade negotiations.

The President is provided authority for a period of five years to increase or decrease tariffs without limit in order to carry out trade agreements. Any proposed changes in duties are subject to prenegotiation procedures, including public hearings. Duty reductions will be phased over a minimum of five equal annual stages or by maximum annual reductions of three percent ad valorem, whichever is greater.

The President is provided advance authority to implement agreements relating to methods of customs valuation, certain matters relating to assessments and marking of origin requirements. A new procedure is also established under which the President can implement agreements on other types of trade barriers if he notifies the Congress 90 days before concluding such an agreement and if neither House of Congress disapproves of the agreement within ninety days of its submission.

Title II—RELIEF FROM DISRUPTION CAUSED BY FAIR COMPETITION

Title II contains major changes in existing provisions relating to import relief for industries seriously injured by increased imports, and provides new adjustment assistance provisions for workers displaced by import competition.

Chapter I liberalizes existing criteria for determining that injury to domestic industries is due to imports. Upon petition, request, or on its own motion, the Tariff Commission will conduct an investigation to determine whether increased imports are the "primary" cause of serious injury, or threat thereof, to the domestic industry producing like or directly competitive articles. A finding of market disruption constitutes *prima facie* evidence that imports are the primary cause of injury.

The President can provide import relief in the form of increases in duties, quantitative limitations, orderly marketing agreements, and suspension of items 806.30 and 807.00 of the Tariff Schedules. Consistent with adjustment purposes, import relief is limited to five years and must be phased out during this period. The relief may be extended for one two-year period.

Chapter II on adjustment assistance provides for supplemental payments to workers in cases where the Secretary of Labor determines that increased imports have been a "substantial" cause of unemployment or underemployment. The supplemental payment benefits are based on those which will apply under State law for all workers fol-

lowing enactment of compansion legislation establishing minimum State standards for unemployment insurance benefits. The chapter also provides continuing programs of worker benefits in the form of training and relocation and job search allowances.

Title III—RELIEF FROM UNFAIR TRADE PRACTICES

Title III revises the four principal statutes which provide authority to respond to foreign unfair trade practices.

Chapter I revises and expands the President's authority under section 252 of the Trade Expansion Act to take action against foreign countries which maintain unjustifiable or unreasonable import restrictions and other policies which burden, restrict, or discriminate against United States trade.

Chapter II amends the Antidumping Act of 1921. The amendments include placing time limits on investigations and withholding of appraisement and providing for hearings.

Chapter III contains major amendments to the countervailing duty law. Countervailing duties will apply for the first time to duty-free goods, subject to a determination of material injury by the Tariff Commission. The application of countervailing duties is not required, however, if such action would be significantly detrimental to United States economic interests or an existing quantitative limitation is an adequate substitute. The Secretary of the Treasury must determine within one year whether a bounty or grant is being paid or bestowed.

Chapter IV amends section 337 of the Tariff Act relating to foreign unfair practices in import trade by expanding the procedures in the statute relating to patent infringement. Companion legislation will provide the Federal Trade Commission authority to investigate and regulate other unfair methods of import competition.

Title IV—INTERNATIONAL TRADE POLICY MANAGEMENT

Title IV contains various permanent authorities to provide the President with more flexible means to manage trade policy.

It provides explicit and flexible authority for the President to deal with serious balance-of-payments situations, including authority to impose a temporary import surcharge or other import limitations to deal with a serious balance-of-payments deficit, or to cooperate in correcting an international balance-of-payment disequilibrium. The President is also authorized to reduce or suspend tariffs or other import restrictions temporarily in the case of a persistent balance-of-payments surplus.

Other permanent authorities enable the President to exercise fully United States rights and obligations under trade agreements, to implement supplemental tariff agreements of a limited scope, to compensate countries for increases in United States import restrictions, and to reduce import restrictions temporarily to restrain inflation.

Title V—TRADE RELATIONS WITH COUNTRIES NOT ENJOYING MOST-FAVORED-NATION TREATMENT

Title V provides authority to the President to extent most-favored-nation treatment to imports from countries which currently receive Column 2 rates of duty, subject to a 90-day Congressional veto procedure. This treatment may be extended through bilateral commercial agreements or through multilateral trade agreements to which the United States is also a party.

The agreements must be limited to an initial period of not more than three years but may be renewed for additional three-year periods. The President may suspend or withdraw the application of most-favored-nation treatment at any time, and the agreements must provide for suspension or termination at any time for national security reasons.

The Tariff Commission, upon petition or other initiation will conduct an investigation to determine whether imports from the country receiving most-favored-nation treatment under this title are causing or likely to cause material injury to a domestic industry and whether market disruption exists with respect to these imports. The President may apply relief measures to imports from that country without taking action on imports from other countries.

Title VI—GENERALIZED SYSTEM OF PREFERENCES

Title VI provides authority to the President for ten years to participate with other developed countries in granting generalized tariff preferences on imports of semi-manufactures, manufactures, and selected other products from developing countries.

The President may provide duty-free treatment on any eligible article from beneficiary developing countries, subject to pre-negotiation procedures. Preferential treatment is generally not to apply to imports of an article from a particular developing country which supplies more than 50 percent of the total value of United States imports or $25 million of the article to the United States during a representative annual period.

Preferential treatment will not apply to articles on which import relief measures or national security actions are in effect. Developing countries which do not undertake to eliminate preferences to other developed countries before January 1, 1976 or are not receiving most-favored-nation treatment are not eligible as beneficiaries.

Title VII—GENERAL PROVISIONS

Title VII contains general technical provisions applicable to the entire Act, including maintenance of the Tariff Schedules of the United States, and the repeal of various sections of the Trade Expansion Act. It also repeals the Johnson Debt Default Act, and an embargo on certain furs.

TRADE REFORM ACT OF 1973

A BILL To promote the development to an open, nondiscriminatory and fair world economic system, to stimulate the economic growth of the United States, and to provide the President with additional negotiating authority therefor, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Trade Reform Act of 1973."

TABLE OF CONTENTS

SEC. 1. SHORT TITLE.

This Act may be cited as the "Trade Reform Act of 1973."

SEC. 2. STATEMENT OF PURPOSES.

The purposes of this Act are—

(a) To provide authority in the trade field supporting United States participation in an interrelated effort to develop an open, nondiscriminatory and fair world economic system through reform of international trade rules, formulation of international standards for investment and tax laws and policies, and improvement of the international monetary system;

(b) To facilitate international cooperation in economic affairs for the purpose of providing a means of solving international economic problems, furthering peace and raising standards of living throughout the world;

(c) To stimulate the economic growth of the United States and enlarge foreign markets for the products of United States commerce (including agriculture, manufacturing, mining, and fishing) by furthering the expansion of world trade through the progressive reduction and elimination of barriers to trade on a basis of mutual benefit and equity;

(d) To establish a program of temporary import relief to facilitate adjustment of sections of the domestic economy adversely affected by increased imports, consistent with anticipated multilateral safeguard rules being negotiated with other trading nations;

(e) To provide trade adjustment assistance to workers adversely affected by increased imports;

(f) To improve the means of dealing with problems of unfair import competition;

(g) To provide additional authority for the President to facilitate his negotiations with foreign nations to obtain for exports of American producers fair treatment and equitable access to foreign markets;

(h) To provide the President with more flexible authority to deal with matters affecting trade, including the full exercise of United States rights in the context of international agreements and the use of temporary measures to deal with balance of payments disequilibria and to restrain inflation;

(i) To enable the United States to take advantage of new trade opportunities with countries with which it has not had trade agreement relations in the recent past; and

(j) To provide for United States participation in the common effort of developed countries to open their markets on a generalized preferential basis to the products of developing countries.

TITLE I—AUTHORITY FOR NEW NEGOTIATIONS

CHAPTER 1.—GENERAL AUTHORITIES

SEC. 101. BASIC AUTHORITY FOR TRADE AGREEMENTS.

Whenever the President determines that any of the purposes of this Act will be promoted thereby, the President may—

(1) After the date of enactment of this Act, and before five years from that date, enter into trade agreements with foreign countries or instrumentalities thereof; and

(2) Provide for such modification or continuance of any existing duty, such continuance of existing duty-free or excise treatment, or such additional duties, as he determines to be required or appropriate to carry out any such trade agreement.

SEC. 102. STAGING REQUIREMENTS AND ROUNDING AUTHORITY.

(a) Except as otherwise provided in this section, the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement under this title shall not exceed the aggregate reduction which would have been in effect on such day if—

(1) one fifth of the total reduction under such agreement or a reduction of three percent ad valorem (or ad valorem equivalent) whichever is greater, had taken effect on the date of the first action pursuant to section 101(b) to carry out such trade agreement, and

(2) the remainder of such total reduction had taken effect at one-year intervals after the date referred to in paragraph (1) in installments equal to the greater of three percent ad valorem (or ad valorem equivalent) or one fourth of such remainder.

(b) After any part of a reduction takes effect, then any time thereafter during which such part of the reduction is not in effect by reason of action taken pursuant to Chapter 1 of Title II of this Act shall be excluded in determining the one-year intervals referred to in subsection (a)(2).

(c) If the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed the limitation provided by subsection (a) of this section by not more than whichever of the following is lesser:

(1) the difference between the limitation and the next lower whole number, or

(2) one-half of one percent ad valorem, or ad valorem equivalent.

(d) The provisions of subsection (a) need not be applied if the total reduction in the rate of duty does not exceed ten percent of the rate prior to the reduction.

(e) Nothing contained herein shall prevent the President, where he determines that it is appropriate, from providing in the case of certain products, that reductions pursuant to a trade agreement under this title shall become fully effective over a longer period of time than that provided in subsection (a).

SEC. 103. NONTARIFF BARRIERS TO TRADE.

(a) The Congress finds that trade barriers and other distortions of international trade are reducing the growth of foreign markets for the products of United States commerce (including agriculture, manufacturing, mining, and fishing), diminishing the intended mutual benefits of reciprocal trade concessions, and preventing the development of open and nondiscriminatory trade among nations. It is the will of the Congress that the President take all appropriate and feasible steps within his power to reduce, eliminate, or harmonize barriers and other distortions of international trade in order to further the objective of providing better access for products of the United States to foreign markets.

(b) In order to further the objectives of subsection (a), the President is urged to negotiate trade agreements with other countries and instrumentalities providing on a basis of mutuality for the reduction, elimination, or harmonization of barriers and other distortions of international trade. Nothing in this subsection or in subsection (a) shall be construed as prior approval of any legislation that may be necessary to implement an agreement concerning trade barriers and other distortions of international trade.

(c) The President, whenever he finds that it will be of substantial benefit to the United States, is hereby authorized to take any action required or appropriate to carry out any trade agreement negotiated pursuant to subsection (b), to the extent that such implementation is limited to a reduction of the burden on trade resulting from methods of customs valuation, from establishing the quantities on which assessments are made, and from requirements for marking of country of origin.

(d) Whenever the President enters into a trade agreement providing for the reduction, harmonization or elimination of barriers or other distortions of international trade, and the President determines that it is necessary or appropriate to seek additional action by Congress in order to implement such agreement, he may authorize the entry into force of such agreement and issue such orders as may be necessary for the United States to fulfill its obligations under such agreement, subject to the procedures contained in subsection (e).

(e) Orders issued pursuant to subsection (d) shall be valid pursuant to this section:

(1) Only if the President has given notice to the Senate and to the House of Representatives of his intention to utilize this procedure, such notice to be given at least 90 days in advance of his entering into an agreement;

(2) Only after the expiration of 90 days from the date on which the President delivers a copy of such agreement to the Senate and to the House of Representatives, as well as a copy of his proposed orders in relation to existing law and a statement of his reasons as to how the agreement serves the interests of United States

commerce and as to why the proposed orders are necessary to carry out the agreement; and

(3) Only if between the date of delivery of the agreement to the Senate and to the House of Representatives and the expiration of the 90-day period referred to in subsection (e)(2) above, neither the Senate nor the House of Representatives has adopted a resolution, by an affirmative vote by the yeas and nays of a majority of the authorized membership of that House, stating that it disapproves of the agreement.

For purposes of subsection (e)(2), in the computation of the 90 day period there shall be excluded the days on which either House is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die. The notices referred to in subsection (e)(1) and the documents referred to in subsection (e)(2) shall be delivered to both Houses of the Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House of Representatives is not in session and to the Secretary of the Senate if the Senate is not in session.

CHAPTER 2.—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS PURSUANT TO TITLE I

Subchapter A—Title I Prenegotiation Requirements

SEC. 111. TARIFF COMMISSION ADVICE.

(a) In connection with any proposed trade agreement under section 101, the President shall from time to time publish and furnish the Tariff Commission with lists of articles which may be considered for modification or continuance of United States duties, continuance of United States duty-free or excise treatment, or additional duties.

(b) Within six months after receipt of such a list, the Tariff Commission shall advise the President with respect to each article of its judgment as to the probable economic effect of modifications of duties on industries producing like or directly competitive articles, so as to assist the President in making an informed judgment as to the impact that might be caused by such modifications on United States industry, agriculture, and labor.

(c) In preparing its advice to the President, the Tariff Commission shall, to the extent practicable—

(1) investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles in question and the domestic industries producing the like or directly competitive articles;

(2) analyze the production, trade, and consumption of each like or directly competitive article, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production;

93-290 O - 73 - 2

(3) describe the probable nature and extent of any significant change in employment, profit levels, use of productive facilities and such other conditions as it deems relevant in the domestic industries concerned which it believes such modifications would cause; and

(4) make special studies (including studies of real wages paid in foreign supplying countries), whenever deemed to be warranted, of particular proposed modifications affecting United States industry, commerce, agriculture, mining, fishing, and labor, utilizing to the fullest extent practicable United States Government facilities abroad and appropriate personnel of the United States.

(d) In preparing its advice to the President, the Tariff Commission shall, after reasonable notice, hold public hearings.

SEC. 112. ADVICE FROM DEPARTMENTS.

(a) Before any trade agreement is entered into under sections 101 and 103 of this title, the President shall seek information and advice with respect to each agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State, Treasury, and the Special Representative for Trade Negotiations, and from other sources as he may deem appropriate.

(b) Whenever the President or any agency seeks advice of selected industry, labor and agriculture groups concerning United States negotiating objectives and bargaining positions in specific product sectors prior to entering into a trade agreement under this title, the meetings of such advisory groups shall be exempt from the requirements relating to open meetings and public participation contained in section 10(a)(1) and (3) of the Federal Advisory Committee Act.

SEC. 113. PUBLIC HEARINGS.

(a) In connection with any proposed trade agreement under sections 101 and 103 of this title, the President shall afford an opportunity for any interested person to present his views concerning any article on a list published pursuant to section 111, any article which should be so listed, any concession which should be sought by the United States, or any other matter relevant to such proposed trade agreement. For this purpose, the President shall designate an agency or an interagency committee which shall, after reasonable notice, hold public hearings, and prescribe regulations governing the conduct of such hearings.

(b) The organization holding such hearings shall furnish the President with a summary thereof.

SEC. 114. PREREQUISITE FOR OFFERS.

In any negotiations seeking an agreement under section 101, the President may make an offer for the modification or continuance of any duty, or continuance of duty-free or excise treatment, with respect to any article only after he has received a summary of the hearings at which an opportunity to be heard with respect to such articles has been afforded under section 113. In addition, the President may make such an offer only after he has received advice concerning such article from the Tariff Commission under section 111(b), or after the expiration of the relevant six-month period provided for in that section, whichever first occurs.

Subchapter B—Congressional Liaison

SEC. 121. TRANSMISSION OF AGREEMENTS TO CONGRESS.

As soon as practicable after a trade agreement entered into under section 101 or 103 has entered into force with respect to the United States, the President shall, if he has not previously done so, transmit a copy of such trade agreement to each House of the Congress together with a statement, in the light of the advice of the Tariff Commission under section 111(b), if any, and of other relevant considerations, of his reasons for entering into the agreement.

TITLE II—RELIEF FROM DISRUPTION CAUSED BY FAIR COMPETITION

CHAPTER 1.—IMPORT RELIEF

SEC. 201. INVESTIGATION BY TARIFF COMMISSION.

(a)(1) A petition for eligibility for import relief for the purpose of facilitating orderly adjustment to import competition may be filed with the Tariff Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry. The petition shall include a statement describing the specific purpose for which import relief is being sought, which may include such objectives as facilitating the orderly transfer of resources to alternative employment and other means of adjustment to new conditions of competition.

(2) Whenever a petition is filed under this subsection, the Tariff Commission shall transmit a copy thereof to the Special Representative for Trade Negotiations and the agencies directly concerned.

(b)(1) Upon the request of the President of the Special Representative for Trade Negotiations, upon resolution of either the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives, upon its own motion, or upon the filing of a petition under subsection (a)(1), the Tariff Commission shall promptly make an investigation to determine whether an article is being imported into the United States in such increased quantities as to be the primary cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported article.

(2) In making its determination regarding serious injury or threat thereof, the Tariff Commission shall take into account all economic factors which it considers relevant, including significant idling of productive facilities in the industry, inability of a signficant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry.

(3) In making its determination regarding primary cause, the Tariff Commission shall take into account all factors it considers relevant, including the extent to which current business conditions within the industry may have contributed to the competitive difficulties which the firms in the industry have been experiencing.

(4) In addition, the Tariff Commission shall, for the purpose of assisting the President in making his determinations under sections 202

and 203, investigate and report on efforts made by the firms in the industry to compete more effectively with imports.

(5) In each investigation under this subsection in which it is requested to do so pursuant to the petition, request or resolution referred to in subsection (b) (1) or on its own motion, the Tariff Commission shall determine whether there exists a condition of market disruption as defined in subsection (f) below. If the Tariff Commission finds serious injury, or the threat thereof, a finding of market disruption shall constitute prima facie evidence that increased quantities of imports of the like or directly competitive articles are the primary cause of such injury or threat thereof.

(c) In the course of any proceeding under subsection (b), the Tariff Commission shall, after reasonable notice, hold public hearings and shall afford interested parties an opportunity to be present, to present evidence, and to be heard at such hearings.

(d) (1) The Tariff Commission shall report to the President its findings under subsection (b) and the basis therefor and include in each report any dissenting or separate views. The Tariff Commission shall furnish to the President a transcript of the hearings and any briefs which may have been submitted in connection with each investigation.

(2) The report of the Tariff Commission of its determination under subsection (b) shall be made at the earliest practicable time, but not later than three months after the date on which the petition is filed (or the date on which the request or resolution is received or the motion is adopted, as the case may be), unless prior to the end of the three-month period, the Tariff Commission makes a finding that a fair and thorough investigation cannot be made within that time and publishes its finding in the Federal Register. In such cases, the period within which the Tariff Commission must make its report shall be extended by two months.

(3) Upon making its report to the President, the Tariff Commission shall also promptly make it public (with the exception of information which the Commission determines to tbe confidential) and have a summary of it published in the Federal Register.

(e) No investigation for the purposes of this section shall be made with respect to the same subject matter as a previous investigation under this section, unless one year has elapsed since the Tariff Commission made its report to the President of the results of such previous investigation.

(f) (1) For the purposes of this section the term "the primary cause" means the largest single cause.

(2) For the purposes of this section, a condition of market disruption shall be found to exist whenever a showing has been made that imports of a like or directly competitive article are substantial, that they are increasing rapidly both absolutely and as a proportion of total domestic consumption, and that they are offered at prices substantially below those of comparable domestic articles.

(g) Any investigation by the Tariff Commission under subsection (b) of section 301 of the Trade Expansion Act of 1962 (as in effect before the date of the enactment of this Act) which is in progress immediately before such date of enactment shall be continued under this section in the same manner as if the investigation had been instituted originally under the provisions of this section. For purposes

of subsection (d)(2), the petition for any investigation to which the preceding sentence applies shall be treated as having been filed, or the request or resolution as having been received or the motion having been adopted, as the case may be, on the date of the enactment of this Act.

(h) If, on the date of the enactment of this Act, the President had not taken any action with respect to any report of the Tariff Commission containing an affirmative determination resulting from an investigation undertaken by it pursuant to section 301(b) of the Trade Expansion Act of 1962 (as in effect before the date of the enactment of this Act) such report shall be treated by the President as a report received by him under this section on the date of the enactment of this Act.

SEC. 202. PRESIDENTIAL ACTION AFTER INVESTIGATIONS.

(a) After receiving a report from the Tariff Commission containing an affirmative finding that increased imports have been the primary cause of serious injury or threat thereof under section 201(d) with respect to an industry, the President may—

(1) provide import relief for such industry in accordance with section 203; or

(2) direct the Secretary of Labor to give expeditious consideration to petitions for adjustment assistance for workers in the industry concerned; or

(3) take any combination of these actions.

(b) Within 60 days after receiving a report from the Tariff Commission containing an affirmative finding under section 201(b), the President shall make his determination whether to provide import relief pursuant to section 203; provided, that in the event the Tariff Commission was equally divided, the President shall act within 120 days. If the President determines not to provide import relief, he shall immediately submit a report to the House of Representatives and to the Senate stating the considerations on which his decision was based.

(c) In determining whether to provide import relief pursuant to section 203, the President shall take into account, in addition to such other considerations as he may deem relevant—

(1) information and advice from the Secretary of Labor on the extent to which workers in the industry have applied for, are receiving, or are likely to receive adjustment assistance or benefits from other manpower programs;

(2) the probable effectiveness of import relief as a means to promote achievement of the adjustment purpose, the efforts being made or to be implemented by the industry concerned to adjust to import competition and other considerations relative to the position of the industry in the nation's economy;

(3) the effect of import relief upon consumers, including the price of availability of the imported article and the like or directly competitive article produced in the United States, and upon competition in the domestic markets for such articles;

(4) the effect of import relief on United States international economic interests;

(5) the impact upon United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may be required for purposes of compensation;

(6) the geographic concentration of imported products marketed in the United States; and

(7) alternative economic and social costs that would be incurred by taxpayers, communities, and workers, if import relief were or were not provided.

(d) The President may, within 45 days after the date on which he receives an affirmative finding of the Tariff Commission under section 201(b) with respect to an industry, request additional information from the Tariff Commission. The Tariff Commission shall as soon as practicable but in no event more than 60 days after the date on which it receives the President's request, furnish additional information with respect to such industry in a supplemental report. For purposes of subsection (b), the date on which the President receives such supplemental report shall be treated as the date on which the President received the affirmative finding of the Tariff Commission.

SEC. 203. IMPORT RELIEF.

(a) If the President determines pursuant to section 202 to provide import relief, he shall, to the extent and for such time (not to exceed five years) that he determines necessary to prevent or remedy serious injury or the threat thereof to the industry in question and to facilitate the orderly adjustment to new competitive conditions by the industry in question—

(1) provide an increase in, or imposition of, any duty or other import restriction on the article causing or threatening to cause serious injury to such industry; or

(2) suspend, in whole or in part, the application of items 806.30 or 807.00 of the Tariff Schedules of the United States with respect to such article; or

(3) negotiate orderly marketing agreements with foreign countries limiting the export from foreign countries and the import into the United States of the article causing or threatening to cause serious injury to such industry; or

(4) take any combination of such actions.

(b) Import relief provided pursuant to subsection (a) shall become initially effective no later than 60 days after the President's determination under section 202 to provide import relief, except that the applicable period within which import relief shall be initially provided shall be 180 days if the President anounces at the time of his determination to provide import relief his intention to negotiate one or more orderly marketing agreements pursuant to subsection (a)(3) of this section.

(c) In order to carry out an agreement concluded under subsection (a)(3), the President is authorized to issue regulations governing the entry or withdrawal from warehouse of articles covered by such agreement. In addition, in order to carry out one or more agreements concluded under subsection (a)(3) among countries accounting for a significant part of United States imports of the article covered by such agreements, the President is also authorized to issue regulations gov-

erning the entry or withdrawal from warehouse to the like articles which are the product of countries not parties to such agreements.

(d)(1) Wherever the President has acted pursuant to subsection (a)(1) or (2), he may at any time thereafter while such import relief is in effect, negotiate orderly marketing agreements with foreign countries, and may, upon the entry into force of such agreements, suspend or terminate, in whole or in part, such other actions previously taken.

(2) Any import relief provided pursuant to this section (including relief provided under any orderely marketing agreement) may be suspended, terminated or reduced by the President at any time and, unless renewed under subsection (d) (3), shall terminate not later than the close of the date which is five years after the effective date of the initial grant of any relief under this section.

(3) Any import relief provided pursuant to this section (including any orderly marketing agreements) shall be phased out during the period of import relief and, in the case of a five-year term of import relief, the first reduction of relief shall commence no later than the close of the date which is three years after the effective date of the initial grant of relief. The phasing out of an orderly marketing agreement may be accomplished through increases in the amounts of imports which may be entered during a year.

(4) Any import relief provided pursuant to this section (including any orderly marketing agreements) may be renewed in whole or in part by the President for one two-year period if he determines, after taking into account the advice received from the Tariff Commission under subsection (e)(2) and after taking into account the factors described in section 202(b), that such renewal is in the national interest.

(e)(1) So long as any import relief pursuant to this section (including any orderly marketing agreements) remains in effect, the Tariff Commission shall keep under review developments with respect to the industry concerned and upon request of the President shall make reports to the President concerning such developments.

(2) Upon petition on behalf of the industry concerned, filed with the Tariff Commission not earlier than the date which is nine months, and not later than the date which is six months, before the date any import relief is to terminate fully by reason of the expiration of the applicable period prescribed pursuant to subsection (d)(2), the Tariff Commission shall report to the President its findings as to the probable economic effect on such industry of such termination as well as the progress and specific efforts made by the firms in the industry concerned to adjust to import competition during the initial period of import relief.

(3) Advice by the Tariff Commission under subsection (e)(2) shall be given on the basis of an investigation during the course of which the Tariff Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard.

(f) No investigation for the purposes of section 201 shall be made with respect to an industry which has received import relief under this section unless two years have elapsed since the expiration of import relief under subsection (d).

CHAPTER 2.—ADJUSTMENT ASSISTANCE FOR WORKERS

Subchapter A.—Petitions and Determinations

SEC. 221. PETITIONS.

(a) A petition for a certification of eligibility to apply for adjustment assistance may be filed with the Secretary of Labor (hereinafter in this chapter referred to as "the Secretary") by a group of workers or by their certified or recognized union or other authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.

(b) If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than ten days after the Secretary's publication of notice under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard. The Secretary may request the Tariff Commission to hold any hearing required by this section and submit the transcript thereof and relevant information and documents to him within a specified time.

SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

A group of workers shall be certified as eligible to apply for adjustment assistance under this chapter if the Secretary determines that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, that sales or production, or both, of such firm or subdivision have decreased absolutely, and that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed substantially to such total or partial separation, or threat thereof.

SEC. 223. DETERMINATIONS BY SECRETARY OF LABOR.

(a) As soon as possible after the date on which a petition is filed under section 221, but in any event not later than 60 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 222 and issue a certification of eligibility to apply for assistance under this chapter covering workers in any group which meets such requirements. Each certification shall specify the date on which the total or partial separation began or threatened to begin.

(b) A certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm prior to his application under section 231 occurred (1) more than one year before the date of the petition upon which such certification was granted or (2) more than six months prior to the effective date of this Act.

(c) Whenever the Secretary concludes that the Tariff Commission can aid him in reaching a determination under this section, he may request the Tariff Commission to conduct an investigation of facts relevant to such determination and to report the results within a specified time. In his request, the Secretary may state the particular kinds of data which he deems appropriate to be included.

(d) Upon reaching his determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register.

(e) Whenever the Secretary determines, with respect to any certification of eligibility of the workers of a firm or subdivision of the firm, that total or partial separations from such firm or subdivision are no longer attributable to the conditions specified in section 222, he shall terminate such certification and promptly have notice of such termination published in the Federal Register. Such termination shall apply only with respect to total or partial separations occurring after the termination date specified by the Secretary.

Subchapter B.—Program Benefits

PART I—SUPPLEMENTAL PAYMENTS

SEC. 231. QUALIFYING REQUIREMENTS FOR WORKERS.

An adversely affected worker covered by a certification under subchapter A who files an application with a cooperating State agency shall, in accordance with the provisions of this subchapter, be paid a supplement to the State unemployment insurance payments to which he is otherwise entitled, if the following conditions are met:

(A) Such worker's last total or partial separation prior to his application under this section, occurred

(1) on or after the date, as specified in the certification under which he is covered, on which total or partial separation began or threatened to begin in the adversely affected employment, and

(2) before the expiration of the two-year period beginning on the date on which the determination under section 223 was made, and

(3) before the termination date (if any) determined pursuant to section 223(e); and

(B) Such worker had, in the 52 weeks immediately preceding such total or partial separation, at least 26 weeks of employment at wages of $30 or more a week in adversely affected employment with a single firm or subdivision of a firm, or, if data with respect to weeks of employment are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary.

SEC. 232. SUPPLEMENT TO UNEMPLOYMENT INSURANCE.

(a) Any adversely affected worker who meets the requirements of section 231 and receives State unemployment insurance payments for any week within the two-year period beginning with the date on which his last total or partial separation prior to his application under section 231 occurred shall receive a payment equal to the amount (if any) by which the unemployment insurance payment he receives under the applicable State law for such week is less than the payment he would have received for such week had the applicable State law provided that—

(1) the weekly benefit amount of any eligible individual for a week of total unemployment shall be:

(i) an amount equal to at least one-half of such individual's average weekly wage as determined by the State agency; or

(ii) the maximum weekly benefit amount payable under such State law, whichever is the lesser, and

(2) the maximum weekly benefit amount shall be no less than 66⅔ percent of the Statewide average weekly wage most recently computed before the beginning of the individual's benefit year.

(b) The amount of any weekly payment to be made under this section which is not a whole dollar amount shall be rounded upward to the next higher whole dollar amount.

(c) For the purposes of this section—

(1) "benefit year" means a period as defined in State law except that it shall not exceed one year beginning subsequent to the end of an individual's base period.

(2) "base period" means a period as defined in State law except that it shall be fifty-two consecutive weeks, one year, or four calendar quarters ending not earlier than six months prior to the beginning of an individual's benefit year.

(3) "individual's average weekly wage" means:

(i) in a State which computes individual weekly benefit amounts on the basis of high quarter wages, an amount equal to one-thirteenth of an individual's high quarter wages; or

(ii) in any other State, an amount computed by dividing the total amount of wages (irrespective of the limitation on the amount of wages subject to contribution under the State law) paid to such individual during his base period by the number of weeks in which he performs services in employment covered under such law during such period.

(4) "high quarter wages" means the amount of wages for services performed in employment covered under the State law paid to an individual in that quarter of his base period in which such wages were highest, irrespective of the limitation on the amount of wages subject to contributions under such State law.

(5) "Statewide average weekly wage" means the amount computed by the State agency at least once each year on the basis of the aggregate amount of wages, irrespective of the limitation on the amount of wages subject to contributions under such State law, reported by employers as paid for services covered under such State law during the first four of the last six completed calendar quarters prior to the effective date of the computation, divided by a figure representing fifty-two times the twelve-month average of the number of employees in the pay period containing the twelfth day of each month during the same four calendar quarters, as reported by such employers.

PART II—TRAINING AND RELATED SERVICES

SEC. 233. EMPLOYMENT SERVICES.

The Secretary shall make every reasonable effort to secure for adversely affected workers covered by a certification under subchapter A of this chapter counseling, testing, and placement services, and supportive and other services, provided for under any Federal law. The Secretary shall, whenever appropriate, procure such services through agreements with cooperating State agencies.

SEC. 234. TRAINING.

(a) If the Secretary determines that there is no suitable employment available for an adversely affected worker covered by a certification under subchapter A of this chapter, but that suitable employment (which may include technical and professional employment) would be available if the worker received appropriate training, he may authorize such training. Insofar as possible, the Secretary shall provide or assure the provision of such training on a priority basis through manpower and related service programs established by law.

(b) The Secretary may, where appropriate, authorize supplemental assistance necessary to defray transportation and subsistence expenses for separate maintenance when training is provided in facilities which are not within commuting distance of a worker's regular place of residence. The Secretary shall not authorize payments for subsistence exceeding $5 per day; nor shall he authorize payments for transportation expenses exceeding 10 cents per mile.

(c) The Secretary shall not authorize any training program under this section which begins more than one year from certification under subchapter A or the applicant's last total or partial separation prior to his application under section 231, whichever is later.

(d) Any adversely affected worker who, without good cause, refuses to accept or continue, or fails to make satisfactory progress in, suitable training to which he has been referred by the Secretary shall not thereafter be entitled to payments under this chapter until he enters or resumes the training to which he has been so referred.

PART III—JOB SEARCH AND RELOCATION ALLOWANCES

SEC. 235 JOB SEARCH ALLOWANCES.

(a) Any adversely affected worker covered by a certification under subchapter A of this chapter who has been totally separated may file an application with the Secretary for a job search allowance. Such allowance, if granted, shall provide reimbursement to the worker of 80 percent of the cost of his necessary job search expenses as prescribed by regulations of the Secretary, *Provided*, That such reimbursement may not exceed $500 for any worker.

(b) A job search allowance may be granted only:

(1) to assist an adversely affected worker in securing a job within the United States;

(2) where the Secretary determines that such worker cannot reasonably be expected to secure suitable employment in the commuting area in which he resides; and

(3) where the worker has filed an application for such allowance with the Secretary no later than one year from the date of his last total separation prior to his application under section 231.

SEC. 236. RELOCATION ALLOWANCES.

(a) Any adversely affected worker covered by a certification under subchapter A of this chapter who is the head of a family as defined in regulations prescribed by the Secretary and who has been totally separated may file an application with the Secretary for a relocation allowance, subject to the terms and conditions of this section.

(b) A relocation allowance may be granted only to assist an adversely affected worker in relocating within the United States and only if the Secretary determines that such worker cannot reasonably be expected to secure suitable employment in the commuting area in which he resides and that such worker—

(1) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which he wishes to relocate, or

(2) has obtained a bona fide offer of such employment.

(c) A relocation allowance shall not be granted to such worker unless—

(1) for the week in which the application for such allowance is filed, he is entitled to a payment under section 232 or would be so entitled (determined without regard to whether he filed application therefor) but for the fact that

(A) he has obtained the employment referred to in subsection (b)(1), or

(B) the unemployment insurance payment he receives is equal to or greater than the payment he would have received for such week had the applicable State law provided as set forth in subsections (1) and (2) of section 232(a),

and

(2) such relocation occurs within a reasonable period after the filing of such application or (in the case of a worker undergoing vocational training under the provisions of any Federal statute) within a reasonable period after the conclusion of such training.

(d) For the purposes of this section, the term "relocation allowance" means—

(1) 80 percent of the reasonable and necessary expenses, as specified in regulations prescribed by the Secretary, incurred in transporting a worker and his family and their household effects, and

(2) a lump sum equivalent to three times the worker's average weekly wage, up to a maximum payment of $500.

Subchapter C—General Provisions

SEC. 237. AGREEMENTS WITH STATES.

(a) The Secretary is authorized on behalf of the United States to enter into an agreement with any State, or with any State agency (referred to in this chapter as "cooperating States" and "cooperating State agencies" respectively). Under such an agreement, the cooperating State agency (1) as agent of the United States, will receive applications for, and will provide, payments on the basis provided in this chapter, (2) where appropriate, will afford adversely affected workers who apply for payments under this chapter testing, counseling, referral to training, and placement services, and (3) will otherwise cooperate with the Secretary and with other State and Federal agencies in providing payments and services under this chapter.

(b) Each agreement under this subchapter shall provide the terms and conditions upon which the agreement may be amended, suspended, or terminated.

(c) Each agreement under this subchapter shall provide that unemployment insurance otherwise payable to any adversely affected worker will not be denied or reduced for any week by reason of any right to payments under this chapter.

(d) A determination by a cooperating State agency with respect to entitlement to payments under an agreement is subject to review in the same manner and to the same extent as determinations under the applicable law and only in that manner and to that extent.

SEC. 238. ADMINISTRATION ABSENT STATE AGREEMENT.

(a) In any State where there is no agreement in force between a State or its agency under section 237, the Secretary shall arrange under regulations prescribed by him for performance of all necessary functions under subchapter B of this chapter, including provision for a fair hearing for any worker whose application for payments is denied.

(b) A final determination under subsection (a) with respect to entitlement to payments under subchapter B of this chapter is subject to review by the courts in the same manner and to the same extent as is provided by section 405(g) of title 42 of the United States Code.

SEC. 239. PAYMENTS TO STATES.

(a) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each cooperating State, the sums necessary to enable such State as agent of the United States to make payments provided for by this chapter. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment to the State in accordance with such certification, from the funds for carrying out the purposes of this chapter.

(b) All money paid a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this subchapter, to the Treasury and credited to current applicable appropriations, funds, or accounts from which payments to States under this section may be made.

(c) Any agreement under this subchapter may require any officer or employee of the State certifying payments or disbursing funds under the agreement, or otherwise participating in the performance of the agreement, to give a surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this chapter.

SEC. 240. LIABILITIES OF CERTIFYING AND DISBURSING OFFICERS.

(a) No person designated by the Secretary, or designated pursuant to an agreement under this subchapter, as a certifying officer, shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by him under this chapter.

(b) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this chapter if it was based upon a voucher signed by a certifying officer designated as provided in subsection (a).

SEC. 241. RECOVERY OF OVERPAYMENTS.

(a) If a cooperating State agency or the Secretary, or a court of competent jurisdiction finds that any person—

(1) has made, or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or has knowingly failed or caused another to fail to disclose a material fact; and

(2) as a result of such action has received any payment under this chapter to which he was not entitled,

such person shall be liable to repay such amount to the State agency or the Secretary as the case may be, or either may recover such amount by deductions from any sums payable to such person under this chapter. Any such finding by a State agency or the Secretary may be made only after an opportunity for a fair hearing.

(b) Any amount repaid to a State agency under this section shall be deposited into the fund from which payment was made. Any amount repaid to the Secretary under this section shall be returned to the Treasury and credited to the current applicable appropriation, fund, or account from which payment was made.

SEC. 242. PENALTIES.

Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this chapter or pursuant to an agreement under section 237 shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

SEC. 243. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated to the Secretary such sums as may be necessary from time to time to carry out his functions under this chapter in connection with furnishing payments to workers, which sums are authorized to be appropriated to remain available until expended.

SEC. 244. TRANSITIONAL PROVISIONS.

(a) Where a group of workers has been certified as eligible to apply for adjustment assistance under section 302(b) (2) or (c) of the Trade Expansion Act of 1962, any worker covered by such certification shall be entitled to the rights and privileges provided in Chapter 3 of title III of said Act as existing prior to the date of enactment of this Act.

(b) In any case where a group of workers or their certified or recognized union or other duly authorized representative has filed a petition under section 301(a)(2) of the Trade Expansion Act of 1962, more than four months prior to the effective date of this Act, and

(1) the Tariff Commission has not rejected such petition prior to the effective date of this Act, and

(2) the President or his delegate has not issued a certification under section 302(c) of that Act to the petitioning group prior to the effective date of this Act,

such group or representative thereof may file a new petition under section 221 of this Act, not later than 90 days after the effective date of this Act, and shall be entitled to the rights and privileges provided in this chapter. For purposes of section 223(b)(1), the date on which such group or representative filed the petition under the Trade Expansion Act of 1962 shall apply. Section 223(b)(2) shall not apply to workers covered by a certification issued pursuant to a petition meeting the requirements of this subsection.

(c) The Tariff Commission shall make available to the Secretary on request data it has acquired in investigations under section 301 of the Trade Expansion Act of 1962 concluded within the two year period ending on the date of enactment of this Act, which did not result in Presidential action under section 302(a)(3) or 302(c) of that Act.

SEC. 245. DEFINITIONS.

For purposes of this chapter—

(1) The term "adversely affected employment" means employment in a firm or appropriate subdivision of a firm, if workers of such firm or subdivision are eligible to apply for payments under this chapter.

(2) The term "adversely affected worker" means an individual who, because of lack of work in an adversely affected employment—

(A) has been totally or partially separated from such employment, or

(B) has been totally separated from employment with the firm in a subdivision of which such adversely affected employment exists.

(3) The term "average weekly wage" means one-thirteenth of the total wages paid to an individual in the high quarter. For purposes of this computation, the high quarter shall be that quarter in which the individual's total wages were highest among the first four of the last five completed calendar quarters immediately before the quarter in which occurs the week with respect to which the computation is made. Such week shall be the week in which total separation occurred, or, in cases where partial separation is claimed, an appropriate week, as defined in regulations prescribed by the Secretary.

(4) The term "average weekly hours" means the average hours worked by the individual (excluding overtime) in the employment from which he has been or claims to have been separated in the 52 weeks (excluding weeks during which the individual was sick or on vacation) preceding the week specified in the last sentence of paragraph (3).

(5) The term "total separation" means the layoff or severance of an individual from employment with a firm in which, or in a subdivision of which, adversely affected employment exists.

(6) The term "partial separation" means the layoff or severance of vidual who was not been totally separated, that he has had his hours of work reduced to 80 percent or less of his average weekly hours in adversely affected employment and his wages reduced to 75 percent or less of his average weekly wage in such adversely affected employment.

(7) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico; and the term "United States" when used in the geographical sense includes such Commonwealth.

(8) The term "State agency" means the agency of the State which administers the State law.

(9) The term "State law" means the unemployment insurance law of the State approved by the Secretary under section 3304 of the Internal Revenue Code of 1954.

(10) The term "unemployment insurance" means the unemployment insurance payable to an individual under any State law or Fed-

eral unemployment insurance law, including title 5 of the United States Code, Ch. 85, and the Railroad Unemployment Insurance Act.

SEC. 246. ADMINISTRATIVE PROVISION.

The Secretary of Labor shall, in coordination with the Special Representative for Trade Negotiations, prescribe such regulations as may be necessary to implement the provisions of this chapter.

TITLE III—RELIEF FROM UNFAIR TRADE PRACTICES

CHAPTER 1.—FOREIGN IMPORT RESTRICTIONS

SEC. 301. RESPONSES TO UNFAIR FOREIGN IMPORT RESTRICTIONS AND EXPORT SUBSIDIES.

(a) Whenever the President determines that a foreign country or instrumentality—

(1) maintains unjustifiable or unreasonable tariff or other import restrictions which impair the value of trade commitments made to the United States or which burden, restrict or discriminate against United States commerce,

(2) engages in discriminatory or other acts or policies which are unjustifiable or unreasonable and which burden or restrict United States commerce, or

(3) provides subsidies (or other incentives having the effect of subsidies) on its exports of one or more products to other foreign markets which have the effect of substantially reducing sales of the competitive United States product or products to those other foreign markets;

the President—

(A) shall take all appropriate and feasible steps within his power to obtain the elimination of such restrictions or subsidies;

(B) may refrain from providing benefits of trade agreement concessions to carry out a trade agreement with such country or instrumentality; and

(C) may impose duties or other import restrictions on the products of such foreign country or instrumentality, on a most-favored-nation basis or otherwise, and for such time as he deems appropriate.

(b) In determining what action to take under subsection (a), the President shall consider the relationship of such action to the international obligations of the United States and to the purposes of this Act as specified in section 2.

(c) The President shall provide an opportunity for any interested person to bring to his attention any foreign restrictions, acts, or policies of the kind referred to in paragraphs (1), (2), or (3) of subsection (a). Such opportunity shall be provided prior to the taking of any action only if the President determines it feasible and appropriate.

CHAPTER 2.—ANTIDUMPING DUTIES

SEC. 310. AMENDMENTS TO THE ANTIDUMPING ACT OF 1921.

(a) Section 201(b) of the Antidumping Act, 1921 (19 U.S.C. 160 (b)) is amended to read as follows:

"(b) In the case of any imported merchandise of a class or kind as to which the Secretary has not so made public a finding, he shall, within 6 months, or in more complicated investigations within 9 months, after the question of dumping was raised by or presented to him or any person to whom authority under this section has been delegated—

"(1) determine whether there is reason to believe or suspect, from the invoice or other papers or from information presented to him or to any other person to whom authority under this section has been delegated, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the constructed value); and

"(2) if his determination is affirmative, publish notice of that fact in the Federal Register, and require, under such regulations as he may prescribe, the withholding of appraisement as to such merchandise entered, or withdrawn from warehouse for consumption, on or after the date of publication of that notice in the Federal Register (unless the Secretary determines that the withholding should be made effective as of an earlier date in which case the effective date of the withholding shall be not more than 120 days before the question of dumping was raised by or presented to him or any person to whom authority under this section has been delegated), until the further order of the Secretary, or until the Secretary has made public a finding as provided for in subsection (a) in regard to such merchandise; or

"(3) if his determination is negative, publish notice of that fact in the Federal Register, but the Secretary may within 3 months thereafter order the withholding of appraisement if he then has reason to believe or suspect, from the invoice or other papers or from information presented to him or to any other person to whom authority under this section has been delegated, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the constructed value) and such order of withholding of appraisement shall be subject to the provisions of paragraph (2).

"If, before the expiration of 6 months, or in more complicated investigations 9 months, after the question of dumping was raised or presented to him or any person to whom authority under this section has been delegated, the Secretary concludes that the determination required under paragraph (1) cannot reasonably be made within such time limits, he shall publish notice to that effect in the Federal Register and shall make such determination (and publish the notice required by paragraph (2) or (3)) within 12 months after the question was so raised or presented. For purposes of this subsection the question of dumping shall be deemed to have been raised or presented on the date

on which a notice is published in the Federal Register that information relative to dumping has been received in accordance with regulations prescribed by the Secretary."

(b) Section 201(c) of the Antidumping Act, 1921 (19 U.S.C. 160 (c)) is amended to read as follows:

"(c)(1) Prior to making any determination pursuant to subsection (a) of this section, the Secretary or the Tariff Commission, as the case may be, shall conduct a hearing on the record at which:

"(A) any foreign manufacturer or exporter or domestic importer of the foreign merchandise in question shall have the right to appear by counsel or in person; and

"(B) any other person, firm or corporation may make application and, upon good cause shown, may be allowed by the Secretary or the Tariff Commission, as the case may be, to intervene and appear at such hearing by counsel or in person.

"(2) The transcript of the hearing, together with all papers filed in connection with the investigation (including any exhibits and papers to which the Secretary or the Tariff Commission, as the case may be, shall have granted confidential or *in camera* treatment) constitutes the exclusive record for determination. Notwithstanding any other provisions of law, upon payment of duly prescribed costs, such transcript and papers (other than items to which confidential or *in camera* treatment has been granted) shall be made available to all persons.

"(3) The Secretary, upon determining whether foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value, and the Tariff Commission, upon making its determination under subsection (a), shall each include in the record and shall publish in the Federal Register, such determination, whether affirmative or negative, together with a statement of findings and conclusions, and the reasons or bases therefor, on all the material issues of fact or law presented on the record.

"(4) The hearings provided for hereunder shall be exempt from the provisions of sections 554, 555, 556, and 557 of the Act of September 6, 1966 (5 U.S.C. 554–557).

(c) Section 203 of the Antidumping Act, 1921 (19 U.S.C. 162) is amended to read:

"SEC. 203. PURCHASE PRICE.

"For the purposes of this section and sections 160–171 of this title, the purchase price of imported merchandise shall be the price at which such merchandise has been purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account the merchandise is imported, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and less the amount, if included in such price, of any export tax imposed by

the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation directly upon the exported merchandise or components thereof, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any other taxes rebated or not collected, by reason of the exportation of the merchandise to the United States, which rebate or noncollection has been determined by the Secretary to be a bounty or grant within the meaning of section 303 of the Tariff Act of 1930.

(d) Section 204 of the Antidumping Act, 1921 (19 U.S.C. 163), is amended to read:

"SEC. 204. EXPORTER'S SALES PRICE.

"For the purpose of sections 160–171 of this title, the exporter's sales price of imported merchandise shall be the price at which such merchandise is sold or agreed to be sold in the United States, before or after the time of importation, by or for the account of the exporter, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less (1) the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States, (2) the amount of the commissions, if any, for selling in the United States the particular merchandise under consideration, (3) an amount equal to the expenses, if any, generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, (4) the amount of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States, and (5) the amount of any increased value, including additional material and labor, resulting from a process of manufacture or assembly performed on or with the use of the imported merchandise subsequent to the importation of the merchandise and prior to its sale to a person who is not the exporter of the merchandise within the meaning of section 207; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation directly upon the exported merchandise or components thereof, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any other taxes rebated, or not collected, by reason of the exportation of the merchandise to the United States, which rebate or noncollection has been determined by the Secretary to be a bounty or grant within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303)."

CHAPTER 3.—COUNTERVAILING DUTIES

SEC. 330. AMENDMENTS TO SECTION 303 OF THE TARIFF ACT OF 1930.

(a) Section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) is amended to read:

"SEC. 303. COUNTERVAILING DUTIES.

"(a) LEVY OF COUNTERVAILING DUTIES.—(1) Whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation, shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, then upon the importation of such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to any duties otherwise imposed, a duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

"The Secretary of the Treasury shall determine within 12 months after the date on which the question is presented to him, whether any bounty or grant is being paid or bestowed.

"(2) In the case of any imported article or merchandise which is free of duty, duties may be imposed under this section only if there is an affirmative determination by the Tariff Commission under subsection (b)(1), provided, however, that such a Tariff Commission determination shall be required only for such time as a determination of injury is required by the international obligations of the United States.

"(3) The Secretary of the Treasury shall from time to time ascertain and determine, or estimate, the net amount of each such bounty or grant, and shall declare the net amount so determined or estimated.

"(4) Whenever, in the case of any imported article or merchandise as to which the Secretary has not determined whether a bounty or grant is being paid or bestowed, the Secretary concludes, from information presented to him or to any person to whom authority under this section has been delegated, that a formal investigation into the question of whether a bounty or grant is being paid or bestowed is warranted, he shall forthwith publish notice of the initiation of such an investigation in the Federal Register. The date of publication of such notice shall be considered the date on which the question is presented to the Secretary within the meaning of subsection (a)(1).

"(5) The Secretary of the Treasury shall make all regulations he may deem necessary for the identification of such articles and merchandise and for the assessment and collection of the duties under this section. All determinations by the Secretary under this subsection and all determinations by the Tariff Commission under subsection (b)(1), whether affirmative or negative, shall be published in the Federal Register.

"(b) INJURY DETERMINATIONS WITH RESPECT TO DUTY-FREE MERCHANDISE; SUSPENSION OF LIQUIDATION.—(1) Whenever the Secretary of the Treasury has determined under subsection (a) that a bounty or grant is being paid or bestowed with respect to any article or merchandise which is free of duty, he shall—

"(A) so advise the United States Tariff Commission, and the Commission shall determine within 3 months thereafter, and after such investigation as it deems necessary, whether an industry in the United States is being or is likely to be materially injured, or is prevented from being established, by reason of the importation of such article or merchandise into the United States; and the Commission shall notify the Secretary of its determination; and

"(B) require, under such regulations as he may prescribe, the suspension of liquidation as to such article or merchandise entered, or withdrawn from warehouse, for consumption, on or after the 30th day after the date of the publication in the Federal Register of his determination under subsection (a)(1), and such suspension of liquidation shall continue until the further order of the Secretary or until he has made public an order as provided for in paragraph (2) of this subsection.

"(2) If the determination of the Tariff Commission under subparagraph (A) is in the affirmative, the Secretary shall make public an order directing the assessment and collection of duties in the amount of such bounty or grant as is from time to time ascertained and determined, or estimated, under subsection (a).

"(c) APPLICATION OF AFFIRMATIVE DETERMINATION.—An affirmative determination by the Secretary of the Treasury under subsection (a)(1) with respect to any imported article or merchandise which (1) is dutiable, or (2) is free of duty and with respect to which the Tariff Commission has made an affirmative determination under subsection (b)(1) (for such time as a finding of injury is required by the international obligations of the United States), shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the 30th day after the date of the publication in the Federal Register of such determination.

"(d) DISCRETIONARY IMPOSITION OF COUNTERVAILING DUTIES.—Whenever the Secretary determines, after seeking information and advice from such agencies as he may deem appropriate, that—

"(1) the imposition of an additional duty under this section upon any article would result, or be likely to result in significant detriment to the economic interests of the United States; or

"(2) that any article is subject to a quantitative limitation imposed by the United States on its importation into, or subject to an effective quantitative limitation on its exportation to, the United States and that such quantitative limitation is an adequate substitute for the imposition of a duty under this section;

the imposition of an additional duty under this section shall not be required."

(b)(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The last sentence of section 303(a)(1) of the Tariff Act of 1930 (as added by subsection (a) of this section) shall apply only with

respect to questions presented on or after the date of the enactment of this Act.

(c) Any article which is entered or withdrawn from warehouse free of duty as a result of action taken under Title VI of this Act shall be considered a nondutiable article for purposes of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303)."

CHAPTER 4.—UNFAIR PRACTICES IN IMPORT TRADE

SEC. 350. AMENDMENTS TO SECTION 337 OF THE TARIFF ACT.

Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) is hereby amended to read as follows:

"(a) The importation of articles into the United States which would infringe a United States patent if made, used, or sold in the United States, shall constitute an unfair method of competition, and is hereby declared unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provisions of law, as hereinafter provided.

"(b) The Commission shall investigate alleged violations hereof on complaint under oath or upon its own motion. The burden of proof of any such alleged violation shall be on the complainant, or on the Commission if it investigates on its own motion, to make a *prima facie* showing of the facts required in subsection (a). The Commission shall complete its investigation and announce its findings hereunder at the earliest practicable time, but not later than one year after the date on which a complaint is received or an investigation is initiated by the Commission on its own motion.

"(c) Whenever the Commission shall find the existence of any such violation it shall order that the articles concerned in such unfair methods, imported by any person violating the provisions of this section, shall be excluded from entry into the United States, and upon information of such action by the Commission, the Secretary of the Treasury shall, through the proper officers, refuse such entry; *Provided however*, That whenever

(1) the validity of the patent is challenged by the respondent and a *bona fide* challenge to patent validity is either pending in a suit or the respondent indicates his intention to and in fact institutes such a suit within 60 days of such a challenge to validity before the Commission; or

(2) misuse is claimed by a respondent and a *bona fide* claim of misuse is pending in a court action and the court's decision on that issue would be decisive of the claim before the Commission,

the Commission shall continue the proceedings on all other issues, and if it finds favorably to the patentee thereon, issue an exclusion order conditional on the results of the court proceedings, and in the meantime shall order that the articles concerned be allowed entry into the United States under such bond, in favor of the patentee based on an estimated reasonable royalty or damages, or both, as it shall consider necessary to protect the patentee's asserted rights.

"(d) Any refusal of entry under this section shall continue until the patent expires or until the Commission, either on its own motion or at the request of any interested person, shall find that the continued

exclusion is no longer necessary to prevent the violation that occasioned the exclusion order.

"(e) Whenever the Commission has reason to believe that any article is offered or sought to be offered for entry into the United States in violation of this section, but has no information sufficient to satisfy it thereof, the Commission may in its discretion issue a temporary exclusion order if a *prima facie* showing of a violation of this section has been made and immediate and substantial harm to the patentee involved would result if the temporary exclusion order were not issued. Where a temporary exclusion order is issued, the Secretary of the Treasury shall refuse entry of the articles so excluded by the temporary exclusion order, except that such articles shall be entitled to entry under bond in favor of the patentee based on an estimated reasonable royalty or damages, or both, as the Commission shall consider necessary to protect the patentee's asserted rights. No temporary exclusion order or the posting of a bond under this subsection shall remain in effect for more than one year after the date on which a complaint is received or an investigation is initiated by the Commission on its own motion.

"(f) During the course of each investigation under this section, public hearings shall be held, after reasonable notice, pertaining to, and in advance of, the Commission's determination. A transcript shall be made of all testimony and exhibits presented at such hearing.

"(g) Any person adversely affected by an action or refusal of the Commission to act under this section may secure judicial review in the United States Court of Customs and Patent Appeals in the manner prescribed in Chapter 7 of title 5 and section 2112 of title 28, of the United States Code. Any refusal of entry under this section may be stayed by the court in which case adequate bond shall be provided to protect the patentee's rights. For this purpose, the Court of Customs and Patent Appeals may order the Secretary of the Treasury to impose such bond, in favor of the patentee, based on an estimated reasonable royalty or damages, or both, as it considers necessary to protect the rights of the patentee pending determination of the appeal.

"(h) When used in this section and in sections 338 and 340, the term "United States" includes the several States and Territories, the District of Columbia, and all possessions of the United States except the Virgin Islands, American Samoa, and the Island of Guam."

TITLE IV—INTERNATIONAL TRADE POLICY MANAGEMENT

SEC. 401. BALANCE OF PAYMENTS AUTHORITY.

(a) Whenever the President determines that special import measures are required to deal with the United States balance-of-payments position in the presence of a serious balance-of-payments deficit or a persistent surplus, or to cooperate in correcting an international balance-of-payments disequilibrium as reflected in other countries' balance-of-payments deficits or surpluses, the President is authorized to take one or more of the following actions, for such period as he deems necessary:

(1) For dealing with a serious United States balance-of-payments deficit, or for cooperating in correcting an international balance-of-payments disequilibrium:

(A) to impose a temporary import surcharge in the form of duties (in addition to those already imposed, if any) on articles imported into the United States; and

(B) to impose temporary limitations, through the use of quotas on the importation of articles into the United States, provided that international trade or monetary agreements to which the United States is a party permit the imposition of quotas as a balance-of-payments measure.

(2) For dealing with a persistent United States balance-of-payments surplus:

(A) to reduce temporarily or suspend the duty applicable to any article; and

(B) to increase temporarily the value or quantity of articles which may be imported under any import restriction, or to suspend temporarily any import restrictions;

except with respect to those articles where in his judgment such action would cause or contribute to material injury to firms or workers in any domestic industry, including agriculture, mining, fishing, or commerce, to impairment of the national security, or otherwise be contrary to the national interest.

(b) For the purposes of subsection (a),

(1) a serious balance-of-payments deficit shall be considered to exist whenever the President determines that:

(A) the balance of payments (as measured either on the official reserve transactions basis or by the balance on current account and long-term capital) has been in substantial deficit over a period of four consecutive calendar quarters, or

(B) the United States has suffered a serious decline in its net international monetary reserve position, or

(C) there has been or threatens to be a significant alteration in the exchange value of the dollar in foreign exchange markets, and

(D) the condition indicated in (A), (B) or (C) is expected to continue in the absence of corrective measures.

(2) United States cooperation in correcting a fundamental international balance of payments disequilibrium as reflected in other countries' payments positions is authorized when allowed or recommended by the International Monetary Fund.

(3) A persistent balance-of-payments surplus shall be considered to exist whenever the President determines that:

(A) the balance of payments (as measured either on the official reserve transactions basis or by the balance on current account and long-term capital) has been in substantial surplus for four consecutive calendar quarters; or

(B) the United States has experienced large increases in its international monetary reserves in excess of needed levels of reserves; or

(C) the exchange value of the dollar has appreciated significantly in foreign exchange markets; and

(D) the condition indicated in (A), (B) or (C) is expected to continue in the absence of corrective measures.

(c) Import restricting actions authorized by this section shall be applied consistently with the most-favored-nation principle or on a basis which shall aim at a distribution of trade with the United States approaching as closely as possible that which various foreign countries might have expected to obtain in the absence of such restrictions, unless the President determines that import restricting actions not consistent with these principles are necessary to achieve the objectives of this section. In determining what action to take under this subsection the President shall consider the relationship of such action to the international obligations of the United States.

(d) Import restricting actions authorized by this section shall be of broad and uniform application with respect to product coverage except where the President determines, consistently with the purposes of this section, that certain articles or groups of articles should not be subject to import restricting actions because of the needs of the United States economy. Such exceptions shall be related to the unavailability of domestic supply at reasonable prices, the necessary importation of raw materials, and other similar factors. Neither the authorization of import restricting actions nor the determination of exceptions with respect to product coverage shall be made for the purpose of protecting individual domestic industries from import competition.

(e) Any limitation imposed under subsection (a)(1)(B) on the quantity or value, or both, of an article or group of articles—

(1) shall permit the importation of a quantity or value not less than the quantity or value of such article or articles imported into the United States from the foreign countries to which such limitation applies during the most recent period that the President determines is representative of imports of such article or articles, and

(2) shall take into account any increase since the end of such representative period in domestic consumption of such article or articles and like or similar articles of domestic manufacture or production.

(f) Measures under subsection (a)(2) of this section shall be applied consistently with section 407 of this act.

(g) The President may at any time, consistent with the provisions of this section, suspend, modify, or terminate, in whole or in part, any action taken under this section.

SEC. 402. WITHDRAWAL OF CONCESSIONS AND SIMILAR ADJUSTMENTS.

(a) Whenever the United States, acting in pursuance of any of its rights or obligations under any trade agreement entered into pursuant to this Act, the Trade Expansion Act of 1962, or the Tariff Act of 1930, as amended, withdraws or suspends any obligation with respect to the trade of any foreign country or instrumentality thereof, or, whenever any such trade agreement is terminated, in whole or in part, with respect to the United States, the President is authorized, in order to exercise the rights or fulfill the obligations of the United States, to the extent, at such times, and for such periods as he deems necessary

or appropriate, and consistently with the purposes of this Act and the international obligations of the United States—

(1) to increase any existing duty or other import restriction or provide additional import restrictions; and

(2) to take other actions to withdraw, suspend or terminate the application in whole or in part of the agreement.

(b) Duties or other import restrictions required or appropriate to carry out any trade agreement shall not be affected by any wthdrawal or suspension of an obligation under, or termination in whole or in part of, such agreement unless the President acting pursuant to the authority granted in subsection (a) increases such existing duties or other import restrictions, or provides additional import restrictions.

(c) No rate of duty shall be increased under the authority of this section to a rate more than 50% above the column 2 rate (or 50% ad valorem equivalent), whichever is higher.

(d) The President may, to the extent that such action is consistent with the international obligations of the United States, act pursuant to this section on a most-favored-nation basis or otherwise.

SEC. 403. RENEGOTIATION OF DUTIES.

(a) In order to permit some adjustments to be made over time to deal with changed circumstances, while maintaining an overall balance of mutually advantageous concessions under existing trade agreements, the President is authorized at any time to enter into supplemental tariff agreements with foreign countries or instrumentalities thereof to modify or continue any existing duty, continue any existing duty-free or excise treatment, or impose additional duties, as he determines to be required or appropriate to carry out any such supplemental tariff agreement, within the limitations set forth in this section.

(b) In any one year, agreements involving the reduction of duties, or continuance of duty-free treatment, shall not affect articles accounting for more than two percent of the value of United States imports for the most recent 12 month period for which import statistics are available, nor shall any agreement be made under the authority of this section with respect to any article which has been the subject of a prior agreement entered into pursuant to this section during the preceding five years.

(c)(1) No rate of duty shall be decreased under the authority of this section to a rate more than 20% below the existing duty.

(2) No rate of duty shall be increased under the authority of this section to a rate more than 50% above the column 2 rate or 50% ad valorem (or ad valorem equivalent), whichever is higher.

SEC. 404. COMPENSATION AUTHORITY.

(a) Whenever any action has been taken under sections 203, 301, 402, 403, or 408 of this Act to increase or impose any duty or other import restriction, the President—

(1) shall, to the extent required by United States international obligations, afford foreign countries having an interest as exporters of the products concerned an opportunity to consult with the United States with respect to concessions, if any, to be granted as compensation for any duty or other import restriction imposed by the United States; and

(2) may enter into agreements with such countries for the purpose of granting new concessions as compensation in order to maintain the general level of reciprocal and mutually advantageous concessions.

(b) In furtherance of the purposes of this section, the President may modify or continue any existing duty or other import restriction, or continue any existing duty-free or excise treatment, to the extent that he determines such action to be required or appropriate to maintain a general level of mutually advantageous concessions.

(c) No rate of duty shall be reduced under the authority of this section to a rate below 50% of the existing duty, provided that this limitation shall not apply if the rate existing on such date is not more than five percent ad valorem (or ad valorem equivalent).

SEC. 405. AUTHORITY TO SUSPEND IMPORT BARRIERS TO RESTRAIN INFLATION

(a) If, during a period of sustained or rapid price increases, the President determines that supplies of articles, imports of which are dutiable or subject to any other import restriction, are inadequate to meet domestic demand at reasonable prices, he may, either generally or by article or category of articles, in addition to any authority he may otherwise have,

(1) temporarily reduce or suspend the duty applicable to any article; and

(2) temporarily increase the value or quantity of articles which may be imported under any import restriction.

(b) The President shall not exercise the authority granted in subsection (a) with respect to an article if in his judgment such action would cause or contribute to material injury to firms or workers in any domestic industry, including agriculture, mining, fishing, or commerce, to impairment of the national security, or otherwise be contrary to the national interest. Actions taken under subsection (a) in effect at any time shall not apply to more than 30% of the estimated total value of United States imports of all articles during the time such actions are in effect.

(c) The President may, to the extent that such action is consistent with the purposes of this section and the limitations contained herein, modify or terminate, in whole or in part, any action taken under subsection (a).

(d) The President shall within 30 days of taking any action under this section notify each House of Congress of the nature of his action and the reasons therefor.

(e) No action taken under this section shall remain in effect for more than one year unless specifically authorized by law.

SEC. 406. RESERVATION OF ARTICLES FOR NATIONAL SECURITY OR OTHER REASONS.

(a) No action shall be taken pursuant to the provisions of this Act to reduce or eliminate the duty or other import restriction on any article if the President determines that such reduction or elimination would threaten to impair the national security.

(b) While there is in effect with respect to any article any action taken under section 203 of this Act, or sections 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981), the President shall reserve such article from negotiations or actions contemplating reduction or elimination of any duty or other import restriction with respect to such article, under Title I or sections 403, 404 or 405 of this Act. In addition, the President shall also so reserve any other article which he determines to be appropriate, taking into consideration information and advice available pursuant to and with respect to the matters covered by sections 111(b), 112, and 113(b), where applicable.

SEC. 407. MOST-FAVORED-NATION PRINCIPLE.

Except as otherwise provided pursuant to this Act or any other Act any duty or other import restriction or duty-free treatment applied in carrying out any action or any trade agreement under this Act, under Title II of the Trade Expansion Act of 1962 or under section 350 of the Tariff Act of 1930 as amended, shall apply to products of all foreign countries, whether imported directly or indirectly.

SEC. 408. AUTHORITY TO TERMINATE ACTIONS.

The President may at any time terminate, in whole or in part, any actions taken to implement trade agreements under this Act, title II of the Trade Expansion Act of 1962, or section 350 of the Tariff Act of 1930, as amended.

SEC. 409. PERIOD OF TRADE AGREEMENTS.

Every trade agreement entered into under Titles I and IV of this Act shall be subject to termination or withdrawal, upon due notice, at the end of a period specified in the agreement. Such period shall be not more than three years from the date on which the agreement becomes effective for the United States. If the agreement is not terminated or withdrawn from at the end of the period so specified, it shall be subject to termination or withdrawal thereafter upon not more than six months' notice.

SEC. 410. PUBLIC HEARINGS IN CONNECTION WITH AGREEMENTS UNDER TITLE IV.

The President shall provide for a public hearing during the course of which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard—

(1) Prior to the conclusion of any agreement or modification of any duty or other import restrictions pursuant to section 403 or section 404 of this title;

(2) Pursuant to a request made by any interested person within 90 days after the President's taking any action under sections 402 or 408, on the subject of any such action.

SEC. 411. AUTHORIZATION FOR GATT APPROPRIATIONS.

There are hereby authorized to be appropriated annually such sums as may be necessary for the payment by the United States of its share of the expenses of the Contracting Parties to the General Agreement on Tariffs and Trade.

TITLE V—TRADE RELATIONS WITH COUNTRIES NOT ENJOYING MOST-FAVORED-NATION TARIFF TREATMENT

SEC. 501. EXCEPTION OF THE PRODUCTS OF CERTAIN COUNTRIES OR AREAS.

(a) Except as otherwise provided in this title, the President shall continue to deny most-favored-nation treatment to the products of any country or area, the products of which were not eligible for column 1 tariff treatment on the date of enactment of this Act.

(b) The President is authorized to deny such most-favored-nation treatment to all of the products of any country or area if in his judgment such action is necessary for reasons of national security.

SEC. 502. AUTHORITY TO ENTER INTO COMMERCIAL AGREEMENTS.

(a) Subject to the provisions of subsections (b) and (c) of this section, the President may authorize the entry into force of bilateral commercial agreements providing most-favored-nation treatment to the products of countries heretofore denied such treatment whenever he determines that such agreements with such countries will promote the purposes of this Act and are in the national interest.

(b) Any such bilateral commercial agreement shall—

(1) be limited to an initial period specified in the agreement which shall be no more than three years from the time the agreement enters into force, except that it may be renewable for additional periods, each not to exceed three years, provided a satisfactory balance of trade concessions has been maintained during the life of each agreement and provided further that the President determines that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are satisfactorily reciprocated by the other party to a bilateral commercial agreement with the United States;

(2) provide that it is subject to suspension or termination at any time for national security reasons, or that the other provisions of such agreement shall not limit the rights of any party to take any action for the protection of its security interests; and

(3) provide for consultations for the purpose of reviewing the operation of the agreement and relevant aspects of relations between the United States and the other party.

(c)(1) An agreement referred to in subsection (a) or an order referred to in section 504(a) shall take effect only after the expiration of 90 days from the date on which the President delivers a copy of such agreement or order to the Senate and to the House of Representatives, if between the date of delivery of the agreement or order to the Senate and to the House of Representatives and the expiration of the 90-day period neither the Senate nor the House of Representatives has adopted a resolution, by an affirmative vote by the yeas and nays of a majority of the authorized membership of that House, stating that it disapproves of the agreement or order.

(2) For purposes of this subsection, there shall be excluded from the computation of the 90-day period the days on which either House

is not in session because of an adjournment of more than three days to a day certain or an adjournment of Congress sine die. The agreement referred to in subsection (a) or order referred to in section 504(a) shall be delivered to both Houses of the Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House of Representatives is not in session and to the Secretary of the Senate if the Senate is not in session.

SEC. 503. ADDITIONAL PROVISIONS.

(a) Bilateral commercial agreements under this title may in addition include provisions concerning:

(1) safeguard arrangements necessary to prevent disruption of domestic markets;

(2) arrangements for the protection of industrial rights and processes, trademarks and copyrights;

(3) arrangements for the settlement of commercial differences and disputes;

(4) arrangements for the promotion of trade including those for the establishment or expansion of trade and tourist promotion offices, for facilitation of activities of governmental commercial officers, participation in trade fairs and exhibits and the sending of trade missions, and for facilitation of entry, establishment and travel of commercial representatives; or

(5) such other arrangements of a commercial nature as will promote the purposes of this Act.

(b) Nothing in this section shall be deemed to affect domestic law.

SEC. 504. EXTENSION OF MOST-FAVORED-NATION TREATMENT.

(a) The President may extend most-favored-nation treatment to the products of a foreign country which (1) has entered into a bilateral commercial agreement and such agreement has entered into force pursuant to section 502, or (2) has become a party to an appropriate multilateral trade agreement to which the United States is also a party, and the President has issued an order extending such treatment, which order has taken effect pursuant to section 502(c).

(b) The application of most-favored-nation treatment shall be limited to the period of effectiveness of the obligations of the United States to such country under such bilateral commercial agreement or multilateral agreement.

(c) The President may at any time suspend or withdraw any extension of most-favored-nation treatment to any country pursuant to subsection (a), and thereby cause all products of such country to be dutiable at the column 2 rate.

SEC. 505. MARKET DISRUPTION.

(a) A petition may be filed or a Tariff Commission investigation otherwise initiated under section 201 of this Act in respect of imports of an article manufactured or produced in a country, the products of which are receiving most-favored-nation treatment pursuant to this title, in which case the Tariff Commission shall determine (in lieu of the determination described in section 201(b) of this Act) whether imports of such article produced in such country are causing or are likely to cause material injury to a domestic industry producing like or

directly competitive articles, and whether a condition of market disruption (within the meaning of section 201(f)(2) of this Act) exists with respect to other imports.

(b) For the purposes of sections 202 and 203 of this Act, an affirmative determination of the Tariff Commission pursuant to subsection (a) of this section shall be treated as an affirmative determination of the Tariff Commission pursuant to section 201(b) of this Act, provided, however, that the President, in taking action pursuant to section 203(a)(1) of this Act, may adjust imports of the article from the country in question without taking action in respect of imports from other countries.

SEC. 506. EFFECTS ON OTHER LAWS.

The President shall from time to time reflect in general headnote 3(e) of the Tariff Schedules of the United States the provisions of this Title and actions taken hereunder, as appropriate.

TITLE VI—GENERALIZED SYSTEM OF PREFERENCES

SEC. 601. PURPOSES.

The purpose of this title is to promote the general welfare, foreign policy and security of the United States by enabling the United States to participate with other developed countries in granting generalized tariff preferences to exports of manufactured and semimanufactured products and of selected other products from developing countries. The Congress finds that the welfare and security of the United States are enhanced by efforts to further the economic development of the developing countries, and that such development may be assisted by providing increased access to markets in the developed countries, including the United States, for exports from developing countries.

SEC. 602. AUTHORITY TO EXTEND PREFERENCES.

Notwithstanding the provisions of section 407 of this Act, the President may designate any article as an eligible article, may provide duty-free treatment for any eligible article from any beneficiary developing country designated under section 604, and may modify or supplement any such action consistent with the provisions of this title. In taking any such action, the President shall have due regard for—

(1) the purpose of this title;

(2) the anticipated impact of such action on United States producers of like or directly competitive products; and

(3) the extent to which other major developed countries are undertaking a comparable effort to assist beneficiary developing countries by granting preferences with respect to imports of products of such countries.

SEC. 603. ELIGIBLE ARTICLES.

(a) In connection with any proposed action under section 602, the President shall from time to time publish and furnish the Tariff Commission with lists of articles which may be considered for designation as eligible articles. Prior to the taking of actions under section 602

providing duty-free treatment for any article, the provisions of sections 111 through 114 of this Act shall be complied with as though such actions were actions under section 101 of this Act to carry out a trade agreement entered into thereunder.

(b) Preferential treatment provided under section 602 shall apply only to eligible articles which are imported directly from a beneficiary developing country into the customs territory of the United States; provided that the sum of the cost or value of materials produced in the beneficiary developing country plus the direct costs of processing operations performed in the beneficiary developing country shall equal or exceed that percentage of the appraised value of the article at the time of its entry into the customs territory of the United States that the Secretary of the Treasury shall by regulation prescribe. Such percentage, which may be modified from time to time, should apply uniformly to all articles from all beneficiary developing countries. For the purposes of this subsection, the Secretary shall also determine what constitutes direct costs and shall prescribe rules governing direct importation.

(c) No action shall be taken under section 602 designating as an eligible article any article the importation of which is the subject of any action pursuant to section 203 of this Act, section 351 of the Trade Expansion Act of 1962, section 22 of the Agricultural Adjustment Act, section 202 of the Sugar Act of 1947, or the Act of August 22, 1964 (78 Stat. 594), or any agreement concluded pursuant to section 204 of the Agricultural Act of 1956, or any action by the President pursuant to section 232 of the Trade Expansion Act. Upon the effective date of any action pursuant to section 203 of this Act, section 22 of the Agricultural Adjustment Act, section 202 of the Sugar Act of 1947, or the Act of August 22, 1964 (78 Stat. 594), or any agreement concluded pursuant to section 204 of the Agricultural Act of 1956, or any action by the President pursuant to section 232 of the Trade Expansion Act, with respect to any article then designated an eligible article, such article shall cease to be an eligible article. When the actions or agreements described in the foregoing sentence cease to apply to an article, the President may again designate such article as an eligible article pursuant to the provisions of this section.

(d) After receiving an affirmative finding of the Tariff Commission under section 201 of this Act in respect to an eligible article, the President may, in lieu of the actions permitted under section 203 of this Act terminate the status of such article as an eligible article.

SEC. 604. BENEFICIARY DEVELOPING COUNTRY.

(a) Subject to the provisions of subsection (b), the President may designate any country a beneficiary developing country, taking into account—

(1) the purpose of this title;

(2) any expression by such country of its desire to be so designated;

(3) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(4) whether or not the other major developed countries are extending generalized preferential tariff treatment to such country; and

(5) whether or not such country has nationalized, expropriated or seized ownership or control of property owned by a United States citizen, or any corporation, partnership or association not less than 50 percent beneficially owned by citizens of the United States without provision for the payment of prompt, adequate and effective compensation.

(b) The President shall not designate any country a beneficiary developing country—

(1) the products of which are not receiving most-favored-nation treatment by reason of general headnote 3(e) to the Tariff Schedules of the United States; or

(2) which accords preferential treatment to the products of a developed country other than the United States, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated before January 1, 1976.

SEC. 605. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) The President may modify, withdraw, suspend or limit the application of the preferential treatment accorded under section 602 with respect to any article or with respect to any country; provided that no rate of duty shall be established in respect of any article pursuant to this section other than the rate which would apply in the absence of this title. In taking any such action, the President shall consider the factors set forth in sections 602 and 604(a) of this title.

(b) The President shall withdraw or suspend the designation of a country as a beneficiary developing country if, subsequent to such designation—

(1) the products of such country are excluded from the benefit of most-favored-nation treatment by reason of general headnote 3(e) to the Tariff Schedules of the United States; or

(2) he determines that such country has not eliminated or will not eliminate preferential treatment accorded by it to the products of a developed country other than the United States before January 1, 1976.

(c) Whenever the President determines that a country has supplied 50 percent by value of the total imports of an eligible article into the United States, or has supplied a quantity of such article to the United States having a value of more than twenty-five million dollars, on an annual basis over a representative period, that country shall not be considered a beneficiary developing country in respect of such article, unless the President determines that it is in the national interest to designate, or to continue the designation of such country as a beneficiary developing country in respect of such article.

(d) No action pursuant to this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930, as amended (46 Stat. 696) upon coffee imported into Puerto Rico.

93-290 O - 73 - 4

SEC. 606. DEFINITIONS.

For the purposes of this title—

(1) the term "country" shall mean any country, dependent territory (including an insular possession or trust territory of the United States), area, or association of countries;

(2) the term "developed country" shall mean any country determined by the President to enjoy a high level of economic development relative to the countries of the world taken as a whole, taking into account its per capita gross national product, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the term "major developed country" shall mean any developed country which is a member of the Organization for Economic Cooperation and Development and which is determined by the President to account for a significant percentage of world trade.

SEC. 607. EFFECTIVE PERIOD OF PREFERENCES.

No preferential treatment under this title shall remain in effect for a period in excess of ten years after the effective date of the grant of such preferential treatment or after December 31, 1984, whichever is the earlier.

TITLE VII—GENERAL PROVISIONS

SEC. 701. AUTHORITIES.

(a) The President may delegate the power, authority, and discretion conferred upon him by this Act to the heads of such agencies as he may deem appropriate.

(b) The head of any agency performing functions under this Act may—

(1) authorize the head of any other agency to perform any of such functions;

(2) prescribe such rules and regulations as may be necessary to perform such functions; and

(3) to the extent necessary to perform such functions, procure the temporary (not in excess of one year) or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract or appointment, and in such cases such services shall be without regard to the civil service and classification laws, and, except in the case of stenographic reporting services by organizations, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

SEC. 702. REPORTS.

(a) The President shall submit to the Congress an annual report on the trade agreements program and on import relief and adjustment assistance for workers under this Act. Such report shall include information regarding new negotiations; changes made in duties and nontariff barriers and other distortions of trade of the United States; reciprocal concessions obtained; changes in trade agreements (including the incorporation therein of actions taken from import relief and compensation provided therefor); extension or withdrawal of most-

favored-nation treatment by the United States with respect to the products of a foreign country; extension, modification, withdrawal, suspension or limitation of preferential treatment to exports of developing countries; the results of action taken to obtain removal of foreign trade restrictions (including discriminatory restrictions) against United States exports; and the measures being taken to seek the removal of other significant foreign import restrictions; other information relating to the trade agreements program and to the agreements entered into thereunder, and information relating to the provision of adjustment assistance for workers dislocated due to imports.

(b) The Tariff Commission shall submit to the Congress at least once a year, a factual report on the operation of the trade agreements program.

SEC. 703. TARIFF COMMISSION.

(a) In order to expedite the performance of its functions under this Act, the Tariff Commission may conduct preliminary investigations, determine the scope and manner of its proceedings, and consolidate proceedings before it.

(b) In performing its functions under this Act, the Tariff Commission may exercise any authority granted to it under any other Act.

(c) The Tariff Commission shall at all times keep informed concerning the operation and effect of provisions relating to duties or other import restrictions of the United States contained in trade agreements entered into under the trade agreements program.

SEC. 704. SEPARABILITY.

If any provision of this Act or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of this Act, and of the application of such provision to other circumstances or persons, shall not be affected thereby.

SEC. 705. DEFINITIONS.

For the purposes of this Act—

(1) The term "agency" includes any United States agency, department, board, instrumentality, commission, or establishment, or any corporation wholly or partly owned by the United States.

(2) The term "duty" includes the rate and form of any import duty, including but not limited to tariff-rate quotas.

(3) The term "other import restriction" includes a limitation, prohibition, charge, and exaction other than duty, imposed on importation or imposed for the regulation of imports.

(4) The term "firm" includes an individual proprietorship, partnership, joint venture, association, corporation (including a development corporation), business trust, cooperative, trustees in bankruptcy, and receivers under decree of any court.

(5) An imported article is "directly competitive with" a domestic article at an earlier or later stage of processing, and a domestic article is "directly competitive with" an imported article at an earlier or later stage of processing, if the importation of the imported article has an economic effect on producers of the domestic article comparable to the effect of importation of articles in the same stage of processing as the domestic article. For purposes of this paragraph, the unprocessed article is at an earlier stage of processing.

(6) A product of a country or area is an article which is the growth, produce, or manufacture of such country or area.

(7) The term "modification," as applied to any duty or other import restriction, includes the elimination of any duty or other import restriction.

(8) The term "existing" without the specification of any date, when used with respect to any matter relating to entering into or carrying out a trade agreement or other action authorized by this Act, means existing on the day on which such trade agreement is entered into or such other action is taken, and, when referring to a rate of duty, refers to the nonpreferential rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing in column 1 of the Tariff Schedules of the United States on such day.

(9) The term "ad valorem equivalent" means the ad valorem equivalent of a specific rate or, in the case of a combination of rates including a specific rate, the sum of the ad valorem equivalent of the specific rate and of the ad valorem rate. The ad valorem equivalent shall be determined by the President on the basis of the value of imports of the article concerned during a period determined by him to be representative. In determining the value of imports, the President shall utilize, to the maximum extent practicable, the standards of valuation contained in section 402 or 402a of the Tariff Act of 1930 (19 U.S.C., sec. 1401a or 1402) applicable to the article concerned during such representative period.

SEC. 706. RELATION TO OTHER LAWS.

(a) The second and third sentences of section 2(a) of the Act entitled "An Act to amend the Tariff Act of 1930," approved June 12, 1934, as amended (19 U.S.C. 1352(a)), are each amended by striking out "this Act or the Trade Expansion Act of 1962" and inserting in lieu thereof "this Act or the Trade Expansion Act of 1962 or the Trade Reform Act of 1973."

(b) Action taken or considered to have been taken by the President under section 231 of the Trade Expansion Act of 1962 and in effect on the date of the enactment of this Act shall be considered as having been taken by the President under section 501(a).

(c) Section 242 of the Trade Expansion Act of 1962 is amended as follows:

(1) by striking out "351 and 352" in subsection (a) and inserting in lieu thereof "201, 202 and 203 of the Trade Reform Act of 1973";

(2) by striking out "with respect to tariff adjustment" in subsection (b)(2);

(3) by striking out "301(e)" in subsection (b)(2) and inserting in lieu thereof "201(d) of the Trade Reform Act of 1973"; and

(4) by striking out "section 252(d)" each place it appears and inserting in lieu thereof "subsection 301(c) of the Trade Reform Act of 1973."

(d) Sections 202, 211, 212, 213, 221, 222, 223, 224, 225, 226, 231, 243, 252, 253, 254, 255, 256(1), (2) and (3), 301, 311 through

338, 361, 401, 402, 403, 404, and 405(1), (3), (4) and (5) of the Trade Expansion Act of 1962 are repealed.

(e) All provisions of law (other than this Act, the Trade Expansion Act of 1962, and the Trade Agreements Extension Act of 1951) in effect after the date of enactment of this Act, referring to section 350 of the Tariff Act of 1930, to that section as amended, to the Act entitled "An Act to amend the Tariff Act of 1930," approved June 12, 1934, to that Act as amended or to the Trade Expansion Act of 1962, or to agreements entered into, or proclamations issued, or actions taken under any of such provisions, shall be construed, unless clearly precluded by the context, to refer also to this Act, or to agreements entered into or proclamations or orders issued, pursuant to this Act.

(f) Headnote 4 to schedule 1, part 5, subpart B of the Tariff Schedules of the United States (77A Stat. 32, 19 U.S.C. 1202) is hereby repealed.

(g) The Johnson Debt Default Act (62 Stat. 744; 18 U.S.C. 955) is hereby repealed.

(h) Section 350(a)(6) of the Tariff Act of 1930 is repealed.

SEC. 707. CONSEQUENTIAL CHANGES IN THE TARIFF SCHEDULES.

The President shall from time to time as appropriate embody in the Tariff Schedules of the United States the substance of the relevant provisions of this Act, and of other Acts affecting import treatment, and actions thereunder, including modification, continuance or imposition of any rate of duty or other import restriction.

SEC. 708. SIMPLIFICATION AND MODIFICATION OF THE TARIFF SCHEDULES.

(a) If the President determines that such action will simplify or clarify the Tariff Schedules of the United States, or that it will reduce barriers to international trade, he may from time to time, upon recommendation of the Tariff Commission, modify or amend the Tariff Schedules of the United States, which modification or amendment may include, without limitation:

(1) establishment of new classification;

(2) transfer of particular articles from one classification to another classification; and

(3) abolition of classifications;

Provided, That except as authorized in subsection (b), such action shall not result in any modification of any rate of duty or other import restriction. This subsection shall not be deemed, however, to authorize the adoption of a revised tariff nomenclature in place of the Tariff Schedules of the United States.

(b) If the President determines that such action would contribute to the simplification or clarification of the Tariff Schedules, he may—

(1) modify the rate of duty applicable to any article, or impose or eliminate a rate of duty in respect of any article, provided that no rate of duty or duty-free treatment may be changed by more than one percent ad valorem (or the ad valorem equivalent) from the rate existing on the date effective of this Act, or as modified in accordance with the provisions of any trade agreement concluded in accordance herewith.

(2) subject to subsection (d), modify the rate of duty applicable to any article or impose or eliminate a rate of duty in respect of any article, without regard to the limitation contained in paragraph (1) of this subsection, or modify another import restriction, applicable to an article, or group of articles, the annual imports of which have in none of the immediately preceding ten years exceeded $10,000.

(c) Before recommending to the President any action under this section the Tariff Commission shall publish in the Federal Register a public notice of the type of modification of the Tariff Schedules which it has under consideration, and shall give interested parties adequate opportunity for the presentation of their views to the Commission.

(d) Following any modification of the type authorized by subsection (b) (2) which has, or could have, the effect of reducing or eliminating a duty or other import restriction, the Tariff Commission shall, for a period of five years following the effective date of such modification, observe the effect, if any, of the modification on the importation of the article, or group of articles, involved. The Commission shall promptly report to the President any substantial increase in the imports of such article, or group of articles, during such five-year period. If the President determines that an effect of the modification has been a substantial increase in the imports of such article or group, and that such increase has resulted, or is likely to result in injury to the domestic industry producing the like or directly competitive article, he shall promptly terminate the modification of the duty or other import restriction of such article or group of articles.

(e) The President may at any time terminate, in whole or in part, any action taken under this section.

SECTION-BY-SECTION ANALYSIS OF TRADE REFORM ACT OF 1973

SEC. 1. SHORT TITLE.

Section 1 provides that this Act is to be cited as the "Trade Reform Act of 1973."

SEC. 2. STATEMENT OF PURPOSES.

The purposes of this Act are to provide authority in the trade field supporting United States participation in an interrelated effort to develop an open, nondiscriminatory, and fair world economic system; to facilitate international cooperation in economic affairs; to stimulate United States economic growth and enlarge foreign markets for United States exports; to establish a program of temporary import relief and to provide trade adjustment assistance to workers; to improve the means for dealing with unfair import competition; to provide additional authority for the President to obtain fair and equitable access to foreign markets for United States exports; to provide the President more flexible authority to deal with trade matters; to enable the United States to take advantage of new trade opportunities with countries with which it has not recently had trade agreement relations; and to enable United States participation in the effort by developed countries to provide generalized preferential treatment to products of developing countries.

TITLE I.—AUTHORITY FOR NEW NEGOTIATIONS

CHAPTER 1.—GENERAL AUTHORITIES

SEC. 101. BASIC AUTHORITY FOR TRADE AGREEMENTS.

This section contains the basic grant of authorities to the President applicable to trade agreements, to be exercised in accordance with certain conditions set out in the remainder of the title. The section calls for a determination that the use of these authorities will promote the purposes of the Act, although it is assumed that this requirement is implicit and does not contemplate a formal, published finding by the President.

1. Authority to Enter into Trade Agreements

Paragraph (1) authorizes the President to enter into trade agreements with foreign countries during the five years following the date of enactment of this Act. This provision restores trade agreements authority similar to that provided by section 201(a)(1) of the Trade Expansion Act of 1962 which lapsed on June 30, 1967.

2. Modification of Duties

Paragraph (2) provides that in connection with trade agreements with foreign countries the President may, at any time during the five-year period, continue or modify any existing duty, continue existing duty-free or excise treatment, or impose additional duties as he determines to be required or appropriate to carry out trade agreements. Unlike previous legislation, this section does not contain a limit on the amount of increase or decrease in tariffs which the President may negotiate and implement under a trade agreement.

This authority may be used to raise any duty to any level or to eliminate duties on any or all products, provided such action is pursuant to an international trade agreement. It also permits a combination of actions under an agreement, which could include the elimination of some duties, reduction of others by the same or varying amounts, no reductions on some products, and increases in tariffs to achieve rate harmonization in certain product sectors. In conjunction with the authority provided under section 103, it would be possible to convert nontariff barriers to fixed duties at equivalent or higher levels and then schedule their reduction over a period of time. The authority to modify duties includes the conversion of specific to ad valorem rates, and vice versa.

SEC. 102. STAGING REQUIREMENTS AND ROUNDING AUTHORITY.

Section 102 incorporates the staging principles of section 253 of the Trade Expansion Act of 1962, with the principal exception that reductions of up to three percent ad valorem may be put into effect each year. The purpose of staging is to provide time for the adjustment of United States industries and workers to the effects of the reduction or elimination of duties under a trade agreement.

1. Staging Authority

Subsection (a) requires that any reductions or eliminations of duties pursuant to trade agreements may not take place in less than five equal annual stages, or by annual reductions of a maximum of three percent ad valorem, whichever is the greater. For example, a duty scheduled to be lowered from 20 percent to 10 percent could be reduced three percent at valorem (which is greater than one-fifth of the total reduction) in each of the first three years and eliminated in the fourth. Alternatively the 20 percent duty might be reduced to 10 percent over a longer period.

This section sets forth a minimum preferred period of staging as under section 253 of the Trade Expansion Act. However, under subsection (e) it is specifically recognized that staging could be extended for as long a period as the President deems appropriate for certain products. For example, while the reduction of a duty from 30 percent to 10 percent could be staged in two percentage point annual reductions over a period of ten years, it could not be made effective more rapidly than in four percentage point reductions over five years. Under subsection (c) a total reduction which does not exceed ten percent of the duty prior to its reduction may be exempted from the staging requirements.

2. Interruption of Staging

Subsection (b) provides, as in the Trade Expansion Act, for the exceptional situation in which it might become necessary to interrupt

implementation of a trade agreement concession and not complete the staging within five years. This would occur if staging began but was then suspended as an import relief measure under section 203. When implementation of staging is resumed, the duty rate last in effect must go back into effect for the period of time that stage was suspended before the next stage can be implemented. For example, if the staging is interrupted three months after the second stage begins, nine months of the second stage would go into effect when the staging resumes before implementation of the third stage could become effective.

3. Rounding Authority

The rounding authority under subsection (c) is identical to section 254 of the Trade Expansion Act of 1962. This authority permits the President, by rounding fractions or decimals, to proclaim marginally lower rates in the course of staging than the interim reductions prescribed under subsection (a) if rounding will simplify the computation of the amount of duty to be collected.

SEC. 103. NONTARIFF BARRIERS TO TRADE.

This section contains a statement of Congress urging the President to negotiate with foreign countries for the reduction, elimination, or harmonization of nontariff barriers and other distortions of international trade. For the purposes of this section, the terms nontariff or trade barriers include all barriers to trade including those which stem from methods of application of a duty other than the rate of duty itself. Negotiations could take the form of agreements on particular nontariff barriers and of general principles applicable to all nontariff barriers, which could also act as guidelines for specific agreements.

Since 1934 the Congress has periodically delegated to the President prior authority to enter into trade agreements with foreign countries and to proclaim reductions in tariffs and other import restrictions negotiated in such agreements. With respect to nontariff barriers, which are heterogeneous and usually imbedded in a variety of domestic laws, there is no commonly applicable standard that would lend itself to a general delegation of authority. Furthermore, it is not possible to foresee the types of agreements which may be negotiated or the form of legal techniques which may be necessary to implement them.

Three types of procedures are contemplated under this Act which could be used by the President to negotiate and implement various types of agreements on nontariff barriers:

(1) Continuation of existing procedures, which include the constitutional authority of the President to negotiate or complete agreements when additional implementing legislation is not necessary; completion of an international agreement and submission to the Senate as a Treaty; or completion of an international agreement on an *ad referendum* basis and submission to the Congress for approval through implementing legislation.

(2) Advance authority from the Congress to implement agreements on certain matters under section 103(c).

(3) A Congressional veto procedure applicable to agreements for which the exercise of additional Congressional authority is necessary or appropriate. This procedure described under section

103(d) and (e) is optional since the President could, for example use his existing authorities to submit such agreements to the Congress on an *ad referendum* basis or for approval as a Treaty, as appropriate.

1. Congressional Mandate to Negotiate

Subsections (a) and (b) contain a statement by the Congress urging the President to negotiate agreements with foreign countries to achieve the mutual reduction, elimination, or harmonization of nontariff barriers and other distortions of international trade. This mandate is not to be construed as prior approval by the Congress of any legislation which may be necessary to implement any such agreement.

Unless specifically provided for in an agreement, the President shall determine the extent to which benefits of agreements will apply to nonsignatory of agreements of countries.

2. Advance Authority for Certain Agreements

Subsection (c) grants the President advance authority to implement agreements which substantially benefit the United States with respect to methods of customs valuation, establishing the quantities on which assessments are made, and requirements for marking of country of origin. Agreements relating to American Selling Price, the "Final List," simplification of methods of valuation and the wine-gallon/proof gallon basis for assessment, for example could be implemented under this authority. This authority would not apply, however, to countervailing duty or antidumping regulations.

3. Congressional Veto Procedure

Subsection (d) authorizes the President to implement agreements related to matters which he determines it is necessary or appropriate to seek additional action by Congress. International agreements covering these matters can be implemented in compliance with the procedures under subsection (e) : (1) only if the President has given at least 90 days' notice to both Houses of Congress and appropriate Congressional committees prior to entering into an agreement of his intention to utilize this procedure; (2) only after the expiration of 90 days from the date of President delivers a copy of the agreement and his proposed orders for implementing the agreement with respect to existing domestic law to both Houses of Congress, with a statement as to why the agreement serves the United States trade interests and why the proposed orders are necessary; and (3) only if during the 90 day period the majority of the authorized membership of neither House of Congress adopts a resolution stating its disapproval of the agreement.

The purpose of the 90 days' advance notice requirement is to give the appropriate Congressional committees the opportunity to hold hearings, receive comments from the public, and make recommendations for provisions or modifications in such agreements.

This authority could apply, for example, to new agreements relating to quantitative limitations on imports of agricultural products. However, it is an optional procedure since the President can, if he believes it appropriate, use his existing authorities or other constitutional procedures with respect to import limitations or other nontariff barriers imposed pursuant to domestic laws.

CHAPTER 2.—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS PURSUANT TO TITLE I

Subchapter A.—Title I Prenegotiation Requirements

This subchapter is identical in substance to sections 221 through 224 of the Trade Expansion Act, with the exception of a new provision under section 112(b). Section 225 of the Trade Expansion Act (reservation of articles from negotiation) has been included in section 406 of this Act, which relates to the reservation of articles for national security or other reasons. The prenegotiation procedures of this chapter, unless an explicit exception to the contrary is contained elsewhere in this Act, apply only to actions under section 101.

SEC. 111. TARIFF COMMISSION ADVICE.

Section 111 is identical to section 221 of the Trade Expansion Act except that the language of section 221 relating to the 50 percent limitation on the reduction of duties under section 201(b) of the Trade Expansion Act is omitted.

Subsection (a) provides for the publication and transmission to the Tariff Commission by the President of lists of articles which may be considered for concessions in connection with any proposed trade agreement under section 101 of this title.

Subsection (b) requires the Tariff Commission to advise the President on each article within six months of its judgment as to the probable economic effect of modifying or continuing duties on domestic industries producing like or directly competitive articles. Section 111 (c) outlines the economic factors which the Tariff Commission shall investigate and analyze, and subsection (d) requires the Tariff Commission to hold public hearings during the course of preparing this advice.

The purpose of this advice is to assist the President in making an informed judgment as to the impact of such duty modifications on domestic economic interests. It is intended, as under present procedures, that the Tariff Commission reports to the President under section 111(b) would not be made public.

SEC. 112. ADVICE FROM DEPARTMENTS.

Section 112(a) is identical in substance to section 222 of the Trade Expansion Act. Subsection (b) is a new provision required in view of the enactment of the Federal Advisory Committee Act.

Subsection (a) requires the President, before entering into a trade agreement under sections 101 and 103 of this title, to seek information and advice with respect to each agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State, Treasury, and from the Special Representative for Trade Negotiations. He shall also seek information and advice as appropriate from other sources such as the Department of Transportation.

Subsection (b) provides that meetings of selected industry, labor, and agriculture groups advising the President or any agency on United States negotiating objectives and bargaining positions in specific product sectors prior to entry into trade agreements under this title shall be exempt from the requirements relating to open meetings and public participation under the Federal Advisory Committee Act. Open meetings and public participation would compromise the United States

negotiating posture with foreign countries and inhibit the flow of information from the advisory groups to the President.

SEC. 113. PUBLIC HEARINGS.

Section 113 is identical to the provisions under section 223 of the Trade Expansion Act except that it is divided into two subsections. It applies to proposed agreements on nontariff barriers under section 103, in addition to those on tariffs as under the Trade Expansion Act.

This section requires the President to hold public hearings in connection with any proposed trade agreement under this title to enable interested persons to present their views with respect to the list of articles provided under section 111, any concessions which should be sought from foreign countries, and any other relevant matters. The President is required to designate an agency or interagency committee to hold these hearings and to provide a summary to the President.

SEC. 114. PREREQUISITE FOR OFFERS.

Section 114 is identical in substance to section 224 of the Trade Expansion Act.

The President must receive the summary of public hearings under section 113 before making an offer to modify or continue any duty or to continue duty-free or excise treatment on any article in any negotiations under section 101. The President also cannot make an offer on an article in negotiations under section 101 until he receives the advice of the Traiff Commission under section 111(b) or the relevant six-month period has expired.

This section is intended to permit the President to begin the early stages of a negotiation before receiving the advice and summary, but to prevent him, until either six months have passed or the Tariff Commission provides its advice, from making an offer to modify a duty which, if accepted, would be binding subject to the conclusion of a trade agreement.

Subchapter B.—Congressional Liaison

SEC. 121. TRANSMISSION OF AGREEMENTS TO CONGRESS.

This section is identical in substance to section 226 of the Trade Expansion Act. It requires the President to transmit to each House of the Congress a copy of all trade agreements entered into force under sections 101 or 103, with a statement of his reasons for entering into the agreement in the light of the Tariff Commission's advice under section 111(b) and other relevant considerations.

This Act does not contain a specific provision for better coordination between the Executive Branch and the Congress on matters relating to the trade agreements program. A number of proposals for improving coordination and consultation have been suggested, and it is hoped that the Congress will make provision for this purpose.

TITLE II.—RELIEF FROM DISRUPTION CAUSED BY FAIR COMPETITION

CHAPTER 1.—IMPORT RELIEF

This chapter constitutes a major revision of the "escape clause" provisions of the Trade Expansion Act. There are four fundamental changes:

(1) Liberalization of existing criteria for determining injury to domestic industry due to imports, including the deletion of the causal link to trade agreement concessions, the substitution of "primary" for "major" cause with respect to the relationship between increased imports and injury, and inclusion of a market disruption determination.

(2) Inclusion of additional factors to be taken into account by the Tariff Commission in determining injury due to imports and by the President in his determining whether and in what form to provide import relief. These factors include efforts by the industry to adjust to import competition and the impact of relief on consumers, exporters, and other domestic industries.

(3) Expanded forms and amounts of import relief which the President may provide, including orderly marketing agreements, other import restrictions, removal of statutory limitations on tariff increases and authority to withdraw application of 806.30 and 807.00 provisions.

(4) Stricter time limits on the duration of import relief and the mandatory phasing out of such relief.

These changes are consistent with the fundamental purpose of import relief under this title, namely to permit a seriously injured domestic industry to become competitive again under relief measures and, at the same time, to create incentives for the industry to adjust to competitive conditions in the absence of long-term import restrictions.

SEC. 201. INVESTIGATION BY TARIFF COMMISSION.

Section 201 outlines procedures to be followed by the Tariff Commission in conducting an investigation to determine the existence of injury to a domestic industry due to imports. It also contains major changes in existing criteria and factors to be taken into account in making such a determination.

1. Filing of Petitions

Subsection (a) provides that a petition for eligibility for import relief may be filed with the Tariff Commission by an entity, such as a trade association, firm, or union, which is broadly representative of an industry. The petition must include a statement describing the specific purpose for which import relief is sought, such as to facilitate the transfer of resources to alternative employment and other means to adjust to new competitive conditions.

The Tariff Commission must transmit a copy of any petitions to the Special Representative for Trade Negotiations and to the Government agencies which are directly concerned in particular cases, such as the Departments of Agriculture, Commerce, Interior, Labor, State, and Treasury.

2. Injury Determination

Subsection (b) requires the Tariff Commission to conduct an investigation to determine whether there is injury to a domestic industry due to imports at the request of the petitioner under subsection (a), the President, the Special Representative for Trade Negotiations, or the relevant committees of the Congress. The investigation is to determine whether an article is being imported in such increased quantities as to be the primary cause of serious injury, or the threat thereof,

to the domestic industry producing articles like or directly competitive with the imported article. The term "industry" includes entities engaged in agricultural activities.

One major change in existing law (section 301(b) of the Trade Expansion Act) is the deletion of the requirement that the increased imports result "in major part" from concessions granted under trade agreements. The second major change is the substitution of "primary cause" for "major cause." "Major" has been understood to mean greater than all other factors combined; the "pirmary cause" as defined in section 201(f)(1) means the largest single cause.

Subsection (b) provides that, in making its determination with respect to injury, the Tariff Commission shall take into account all economic factors it considers relevant, including significant unemployment or underemployment in the industry, inability of a significant number of firms to operate at a reasonable level of profit, and significant idling of productive facilities in the industry. In determining whether imports are the primary cause of injury, the Commission shall consider relevant factors such as the extent to which current business conditions, changes in taste or technology, or competitive conditions within the industry may have contributed to the competitive difficulties experienced by firms in the industry. To assist the President in making his determination under sections 202 and 203, the Tariff Commission will also investigate and report on efforts by firms in the industry to compete more effectively with imports.

3. Market Disruption

Subsection (b) provides that the Tariff Commission shall determine in its investigation whether there exists a condition of market disruption as defined in subsection (f) when requested to do so by the petitioner, or by a request or resolution referred to under subsection (b)(1), or upon its own motion. If the Commission finds both market disruption and serious injury, or the threat thereof, the finding of market disruption shall constitute *prima facie* evidence that the causation test has been met, i.e., that increased imports are the primary cause of such injury or threat thereof. However, the Tariff Commission is obligated to conduct a market disruption investigation whether or not rebuttal evidence has been introduced by outside parties. The Commission could, notwithstanding a finding of market disruption, find that factors other than import competition were the cause of serious injury or the threat thereof.

Market disruption shall be found to exist whenever a showing has been made that imports of a like or directly competitive article are substantial, that they are increasing rapidly both absolutely and as a proportion of total domestic consumption, and that they are offered at prices substantially below those of comparable domestic articles. "Comparable" is intended to be a more narrow category of products than "like or directly competitive" articles.

4. Public Hearings

Subsection (c) provides for the Tariff Commission to hold public hearings in connection with any proceedings under section 201(b).

5. Reports to the President

Subsection (d) repeats the requirements of the Trade Expansion Act that the Tariff Commission report to the President the findings

and their basis under each investigation under this section, and include in each report any dissenting or separate views. The Tariff Commission will furnish the President a transcript of the hearings and any briefs submitted in the course of its investigation. The Commission will also make its report public, including a summary in the Federal Register, with the exception of confidential information.

The reports of the Tariff Commission are normally to be filed not later than three months after the date on which the petition was filed. This period may be extended by two months if necessary to produce a fair and thorough investigation. Under existing law the Tariff Commission has six months in which to submit its report. Contrary to existing law the Tariff Commission will not make a recommendation to the President in cases in which it has found injury, as to the duty or other import restriction which is necessary to prevent or remedy such injury. Instead the Tariff Commission will report its findings with respect to the criteria mentioned above.

6. Subsequent Investigations

Subsection (e) continues the restriction contained in section 301 (b) (4) of the Trade Expansion Act that the Tariff Commission will not investigate the same subject matter under a previous investigation unless one year has elapsed since the Tariff Commission made its report to the President of the results of such previous investigation.

SEC. 202. PRESIDENTIAL ACTION AFTER INVESTIGATIONS.

This section provides for a determination by the President within a specific time period whether to provide import relief following an affirmative finding by the Tariff Commission of injury to an industry due to imports. It also enumerates factors which the President must take into account in this determination.

1. President's Authority

Subsection (a) provides that after receiving a report from the Tariff Commission containing an affirmative finding of injury to an industry due to imports, as determined under section 201 (b), the President may decide to (1) provide import relief for the industry under section 203; (2) direct the Secretary of Labor to expedite consideration of petitions by workers for adjustment assistance; or (3) take any combination of these actions.

2. Time Limit and Report to Congress

Subsection (b) The President to make his determination whether to provide import relief under section 203 within 60 days after receiving an affirmative finding of injury from the Tariff Commission. In the case of a tie vote, the President has 120 days to make his determination. If the President decides to provide import relief, he is required to do so within the additional periods provided in section 203. If he determines not to provide import relief, he is required to submit immediately a report to both Houses of Congress stating the considerations on which his decision was based.

3. Factors to be Considered

Subsection (c) describes various considerations which the President must take into account in determining whether to provide import relief

under section 203. These factors include, for example, the effectiveness of import relief as a means to promote adjustment, the impact of relief measures on domestic consumers, other industries and workers, and upon United States foreign economic interests.

4. Additional Information from Tariff Commission

Subsection (d) provides that the President may request additional information from the Tariff Commission within 45 days after the date on which he receives an affirmative finding of injury. The Commission must furnish this additional information in a supplemental report within 60 days of the request. A similar provision is presently contained in section 351 of the Trade Expansion Act, but with longer time periods for making the request and furnishing the information. For purposes of section 202(b), the date on which the President receives the supplemental report is treated as the date on which the President received the affirmative finding.

SEC. 203. IMPORT RELIEF.

This section constitutes a major revision of sections 351 and 352 of the Trade Expansion Act. The section as a whole stresses the objective of adjustment in both form and duration of import relief which the President may provide.

1. President's Authority

Subsections (a) and (b) require the President to grant import relief with respect to the article causing or threatening serious injury within 60 days of his decision under section 202(a) to provide import relief. The relief will be granted to the extent and for such time (not to exceed five years) the President determines necessary to prevent or remedy serious injury to the industry, and to facilitate its orderly adjustment to new competitive conditions.

The relief may take the form of (1) an increase in, or imposition of, any duty or other import restriction on the article; (2) suspension of the application of 806.30 or 807.00 of the Tariff Schedules to the article in whole or in part; (3) negotiation of orderly marketing agreements with one or more foreign countries; or (4) any combination of these actions.

The time period during which the President must provide import relief is extended from 60 to 180 days if, at the time of his determination under section 202 to provide import relief, he announces an intention to negotiate one or more orderly marketing agreements. Interational agreements may be substituted for import relief at any time.

This section expands upon the import relief measures available under existing law. First, it provides new authority to suspend, in whole or in part, the application of items 806.30 or 807.00 of the Tariff Schedules to the article causing or threatening serious injury. Secondly, it removes the requirement under section 352 of the Trade Expansion Act that orderly marketing agreements can only be negotiated *in lieu* of and prior to the imposition of duties or other import restrictions. Thirdly, it removes the restriction presently contained in section 351(b) of the Trade Expansion Act that duty increases may not exceed stipulated limits.

2. Implementation of Orderly Marketing Agreements

Subsection (c), which is virtualy identical to section 352(b) of the Trade Expansion Act, provides that the President may issue regulations governing the entry of an article covered by an orderly marketing agreement. In order to carry out one or more agreements among countries accounting for a significant portion of total United States imports of the article covered, the President may also issue regulations governing the entry of like articles from countries which are not parties to such agreements. Thus, the President may impose controls on imports of articles covered by agreements from non-participating as well as participating countries.

Under subsection (d)(1), the President may negotiate orderly marketing agreements with foreign countries at any time after import relief in the form of duty increases, quotas, or suspension of $806.30 or $807.00 provisions is in effect. These measures may be suspended or terminated, in whole or in part, upon implementation of the international agreements.

3. Termination and Phasing Out

The section provides limitations on the duration of import relief measures and requires the phasing out of such measures during the time of their application.

Subsection (d)(2) provides that any import relief provided under subsection (a), including any orderly marketing agreements, shall terminate not later than five years after the date of the initial grant of relief unless renewed under subsection (d)(4) by the President, in whole or in part, for one additional two-year period. The relief may be extended at any level which was in effect during the initial five-year period. The President must determine that a renewal is in the national interest, taking into account advice from the Tariff Commission and the factors described in section 202(b). Section 351(c) of the Trade Expansion Act provided for an initial term of relief of four years with possible four-year extensions.

Subsection (e)(2) enables that an industry to file a petition with the Tariff Commission for an extension of import relief during the six-month period prior to the three months before the date any import relief is to terminate fully under subsection (d), i.e., five years or, if terminated earlier, the actual period of the initial term of import relief. A modification or a reduction of import relief by the President during this five-year period is not a termination for purposes of subsection (d); that is, an industry may not petition the Tariff Commission with respect to the phasing out of import relief. The Tariff Commission shall conduct an investigation, including a hearing, and report to the President its findings as to the probable economic effect on the industry of terminating relief, and the progress and specific efforts made by firms in the industry to adjust to import competition during the period of initial import relief.

Subsection (d)(3) provides that any import relief measure must also be phased out and, in the case of a five-year term of import relief, the first modification or reduction of the relief must commence within three years. The President may phase out the relief in equal or unequal stages, as he deems appropriate. In the case of orderly marketing agreements, phasing out may be accomplished by increases in the annual amount of imports which may be entered.

93-290 O - 73 - 5

Subsection (e)(1) requires the Tariff Commission to keep under review developments with respect to the industry concerned as long as any import relief remains in effect, and report such developments to the President upon his request.

Subsection (f) provides that no investigation for the purposes of section 201 shall be made with respect to an industry which has received import relief under this section unless two years have elapsed since the expiration of import relief in five or seven years as provided under subsection (d).

4. Compensation Authority

It should be noted that section 404 of this Act provides that whenever any action has been taken under section 203 to increase or impose any duty or other import restriction, the President shall afford interested foreign countries an opportunity to consult with the United States with respect to concessions, if any, to be granted as "compensation" for the import restriction imposed. The President may enter into agreements with such countries to modify duties or other import restrictions as compensation required or appropriate to maintain a general level of reciprocal concessions.

CHAPTER 2.—ADJUSTMENT ASSISTANCE FOR WORKERS

The primary purpose of this chapter is to provide adjustment assistance for workers displaced by import competition pending the enactment of minimum Federal standards of unemployment insurance. Provisions relating to job search and relocation allowances, as well as training, are also included. The worker adjustment assistance program of the Trade Expansion Act is replaced by the provisions of this chapter.

This chapter provides Federal supplements to State unemployment insurance payments and makes provisions for employment services, training, and for job search and relocation grants. Companion legislation imposes minimum standards on State unemployment compensation payments, effective July 1, 1975. These new standards will be available for trade-impacted workers immediately. When all States meet the new levels, no further supplements will be paid under this Act. The other assistance provided for under this chapter continue after the payments of supplements cease.

This chapter eases the eligibility requirements in three major respects, as compared with the Trade Expansion Act: (1) increased imports need not be linked to trade agreement concessions, as is now required; (2) increased imports need only have "contributed substantially" to, rather than having been the "major" cause of, loss of work; and (3) both group petitions and applications for individual assistance go directly to the Secretary of Labor for prompt disposition, eliminating the present determinations by the Tariff Commission and the President.

Subchapter A.—Petitions and Determinations

SEC. 221. PETITIONS.

Section 221(a) provides for filing of petitions with the Secretary of Labor by groups of workers or their duly authorized representa-

tives for a certification of eligibility to apply for adjustment assistance. The Secretary must promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.

This subsection incorporates the same filing provision with respect to workers' petitions as contained in section 301(a)(2) of the Trade Expansion Act except that petitions are to be filed with the Secretary instead of the Tariff Commission. The provisions of section 302(a)(3) and (b)(2) of the Trade Expansion Act would be eliminated.

Subsection (b) provides that the Secretary shall provide for a public hearing if the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits a request not later than ten days after the publication of notice under subsection (a).

The Secretary may request the Tariff Commission to hold any hearing in connection with the investigation initiated under subsection (a) and to submit the transcript and relevant information and documents to him within a specified time. Subsection (b) is similar to section 301(d)(2) of the Trade Expansion Act except for the substitution of the Secretary for the Tariff Commission to provide a public hearing, and the time limit for a request for the hearing.

SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

Section 222 replaces section 301(c)(2) and (3) of the Trade Expansion Act of 1962. It provides new criteria for certification of eligibility of groups of workers to apply for adjustment assistance and substitutes the Secretary of Labor for the Tariff Commission for the purpose of determining whether the criteria are met.

This section also eliminates the requirement in the Trade Expansion Act of a causal link of increased imports to trade agreement consessions, and requires that increased imports only "contribute substantially" to the separations rather than being the major cause. It adds the requirement that sales or production, or both, of the affected firm or subdivision must have declined on an absolute basis.

SEC. 223. DETERMINATION BY SECRETARY OF LABOR.

Subsection (a) provides that as soon as possible but not later than 60 days after a petition is filed under section 221, the Secretary shall determine whether the petitioning group of workers meets the eligibility requirements of section 222, and shall issue a certification of eligibility to apply for adjustment assistance under subchapter B covering workers in any group which meets such requirements. The certification is of a continuing nature and covers not only workers totally or partially separated from the impact date through the period ending with the date of the certification but separation of other workers thereafter.

Each certification shall specify the date on which the total or partial separation began or threatened to begin. The date to be determined is the earliest date on which any part of the total or partial separations involving a significant number or proportion of workers began or threatens to begin. The date when total or partial separations threatens to begin is the date on which they are expected to begin.

Subsection (b) provides that a certification of eligibility to apply for assistance shall not apply to any worker who was last totally or par-

tially separated from the firm or subdivision prior to his application under section 231 (1) more than one year before the date of the petition upon which the certification covering him was granted or (2) more than six months before the effective date of this Act. Section 244(b) adjusts the applicable petition date for subsection (b)(1) and makes subsection (b)(2) inapplicable in the case of groups and workers meeting certain requirements set forth therein.

Subsection (c) authorizes the Secretary to request the Tariff Commission to conduct an investigation of the facts relevant to a determination under section 223 and to report the results within a specified time. The Secretary may state the particular kinds of data which he deems appropriate to be included. This is not intended, however, to preclude the Tariff Commission from gathering and including in its report such additional data as it considers relevant.

Subsection (d) requires the Secretary to publish promptly in the Federal Register a summary of his determination on a petition under subsection (a). If the determination is affirmative, the Secretary would issue a certification and the summary would therefore be of the certification.

Subsection (e) provides for the termination of certifications of eligibility to apply for adjustment assistance if the Secretary determines that total or partial separations are no longer attributable to the conditions specified under section 222. This subsection is the same in substance as section 302(e) of the Trade Expansion Act, except that the Secretary is given the statutory authority to terminate, instead of by delegation from the President, and the publication of terminations in the Federal Register is expressly required by statute instead of by regulation. As in the existing provisions, it is expressly provided that such termination shall apply only to total or partial separations occurring after the termination date specified by the Secretary. Therefore, the termination would not affect the eligibility of workers separated before the termination date to apply for and receive assistance.

Subchapter B.—Program Benefits

PART I.—SUPPLEMENTAL PAYMENTS

SEC. 231. QUALIFYING REQUIREMENTS FOR WORKERS.

This section states the qualifications an individual worker must have in order to obtain supplemental payments for weeks in which he is entitled to State unemployment insurance payments. The qualifications are similar to those in section 322 of the Trade Expansion Act. The major differences in subsection (B) are omission of the requirement of employment during 78 of 156 weeks immediately preceding total or partial separation, an increase of the wages for a qualifying week of employment from $15 to $30, and the new requirement that the qualifying weeks be with a single firm or subdivision of a firm.

In order to qualify for unemployment insurance supplemental payments, an adversely affected worker covered by a certification under subchapter A must file an application with a cooperating State agency. The worker's last total or partial separation before he applies must

have occurred after the "impact date" (the date specified in the certification when total or partial separation began or threatened to begin), within two years after the Secretary issued the certification covering the worker, and before the termination date determined under section 233(e). The date of issuance of the certification is the date on which the Secretary or his delegate signs the certification. The worker must also have had 26 weeks of employment with a single firm or subdivision at $30 or more wages a week in adversely affected employment within the 52 weeks immediately preceding his total or partial separation.

SEC. 232. SUPPLEMENT TO UNEMPLOYMENT INSURANCE.

This section establishes the amount of supplemental payment that an adversely affected worker who receives State unemployment insurance for a week of unemployment and meets the qualifying requirements of section 231 shall receive. A supplemental payment is equal to the amount (if any) by which the State unemployment insurance he receives for such week is less than the payment he would have received if under the State law his weekly benefit amount was one-half of his average weekly wage, or the maximum weekly benefit amount, whichever is less. The maximum weekly benefit amount used in computing the weekly benefit amount which he would have received, for trade readjustment purposes, would be 66⅔ percent of the statewide average weekly wage computed before the beginning of the applicant's benefit year as that term is defined in the State law. Each State would be required to compute the statewide average weekly wage at least once a year. This establishes a Federal standard by which to measure the amount to be paid as a supplement to State unemployment insurance.

Legislation is being introduced amending section 3304(a) of the Internal Revenue Code to require State unemployment insurance laws with respect to benefit years beginning on and after July 1, 1975 to provide weekly benefit amounts which will meet, as a minimum, precisely the same standard here proposed. If such legislation is enacted in the form proposed, on and after July 1, 1975, it is most likely that all adversely affected workers would receive an amount of State unemployment insurance which would make supplementation unnecessary.

If the State weekly benefit amount of unemployment insurance equaled or exceeded the Federal standard, no trade readjustment allowance would be paid. No adversely affected worker would receive total benefits (State unemployment insurance and Federal supplement, if necessary) less than the Federal standard.

Subsection (c) defines the terms used in establishing the weekly benefit amount on the basis of which the supplemental payment would be made. "Benefit year" would be the benefit year as defined in State law but could not be more than a one-year period beginning after the end of the individual's base period. "Base period" would be the base period as defined in State law with the limitation that it be either 52 consecutive weeks, one year, or four calendar quarters and could not end earlier than six months prior to the beginning of an individual's benefit year. This is to assure that the weekly benefit amount is based on recent earnings.

The definition of "individual's average weekly wage" takes account of variations in State laws. Where a State computes weekly benefit amounts on the basis of high quarter wages, the average weekly wage would be 1/13th of the amount of wages received in such quarter. In other States, the average weekly wage will be computed on the basis of a simple formula. Total wages in the base period will be divided by the number of weeks in the base period during which the individual performed services in employment covered under the State law during the base period. "High quarter wages" are the amount of wages paid to an individual in that quarter of his base period in which the wages were the highest.

The "statewide average weekly wage" will be total wages paid by covered employers in the State for the first four of the last six completed calendar quarters divided by the average number of workers in covered employment during the same four quarter period. Since the figures used in the computation will be based on reports furnished by employers, there is a lag between the period used in making the computation and the computation date to enable the State agency to collect the data needed to make the computation.

PART II—TRAINING AND RELATED SERVICES

SEC. 233. EMPLOYMENT SERVICES.

Section 233 provides that the Secretary shall make every reasonable effort to secure counseling, testing, and placement services, and supportive and other services provided for under any Federal law for adversely affected workers covered by a certification under subchapter A of chapter 2. The Secretary shall procure such services through agreements with cooperating State agencies whenever appropriate.

It is the intention under this provision that the Secretary shall make arrangements for effective referral of the workers for the services to the extent such services are provided for under any other Federal law, and that appropriations made available under this Act are not to be expended to defray the cost or expense of the actual services. In procuring such services through agreements with cooperating State agencies, it is expected that the services will be funded through funds made available under other programs, including under revenue-sharing arrangements.

As used in section 233, it is intended that the phrase "supportive and other services" includes, to the extent provided in Federal law, services such as work orientation, basic education, communication skills, employment skills, minor health services, and other services which are necessary to prepare a worker for full employment. It is intended that the minor health services referred to above shall be limited to those which are necessary to correct a condition that would otherwise prevent a worker from being able to accept a training or employment opportunity.

SEC. 234. TRAINING.

This section authorizes the Secretary to provide or assure provision of appropriate training to trade-impacted workers under manpower and related service programs established by law, on a priority basis.

Subsection (a) provides that the Secretary may authorize training, under manpower and related service programs established by law for

adversely affected workers covered under certifications under subchapter A for whom suitable employment (including technical and professional employment) would be available only after such training. These provisions are similar to section 326(a) of the Trade Expansion Act.

Subsection (a) also provides that the Secretary shall assure the provision of training, insofar as possible, on a priority basis. In relation to Federally financed manpower training programs, this language authorizes the Secretary to exercise such guidance and control as is possible in order to assure that manpower funds allocated to and primarily administered by State and local officials shall be used to serve workers certificated under this chapter. The reference to priority is intended to place such workers in a favored position if training resources are not adequate to meet the needs of all applicants. The only other such priority with statutory support is that provided for veterans in Title V of Public Law 92–540. As under section 233, it is intended that appropriations under this Act will not be expended to defray the cost or expense of training but that funds available under other programs, including revenue sharing arrangements, shall be utilized.

Subsection (b) authorizes supplemental assistance to defray transportation and subsistence costs when training is provided in facilities which are not within commuting distance. This provision is identical in substance to section 326(a) of the Trade Expansion Act, including the maximum amounts of $5 per day for subsistence and 10¢ per mile for transportation expenses.

Subsection (c) provides that the Secretary shall not authorize training which begins more than one year after the certification under subchapter A or of the worker's last total or partial separation before applying under subchapter B, whichever is later. There is no directly comparable section in the Trade Expansion Act.

Subsection (d) provides that any worker refusing without good cause to accept or continue, or failing to make satisfactory progress in suitable training to which he was referred by the Secretary shall be disqualified from receiving payments under this chapter until he enters or resumes the training. This subsection is identical in substance to section 327 of the Trade Expansion Act.

PART III.—JOB SEARCH AND RELOCATION ALLOWANCES

SEC. 235. JOB SEARCH ALLOWANCES.

This section provides that a worker covered by a certification under subchapter A may file an application with the Secretary for a job search allowance. This allowance provides reimbursement to the worker of 80 percent of the cost of his necessary job search expenses, not to exceed $500.

The allowance can only be granted to assist the worker in obtaining employment within the United States, only when the worker cannot reasonably be expected to obtain suitable employment in his commuting area, and only if the application for the allowance is filed within one year from his last total separation prior to applying under section 231.

SEC. 236. RELOCATION ALLOWANCES.

Section 236 retains most of the provisions for relocation allowances under sections 328, 329, and 330 of the Trade Expansion Act.

Subsection (a) is identical in substance to section 328 of the Trade Expansion Act. Relocation allowances are afforded (upon application and meeting qualifying requirements) to any adversely affected worker covered by a certification under subchapter A of this chapter who is the head of a family, as defined in regulations prescribed by the Secretary, and who has been totally separated from adversely affected employment. The qualifying requirements of subsection (b) are identical to those of section 329(a) of the Trade Expansion Act.

Subsection (c), which is comparable to section 329(b) of the Trade Expansion Act, authorizes payment of a relocation allowance only if for the week in which the worker files an application for such allowance, he is entitled to a supplemental payment under section 232, or would be so entitled (without regard to whether he filed application for the supplemental payment) if it were not for the fact that he has either obtained the employment to which he wishes to relocate, or received an unemployment insurance payment equal to or greater than the payment he would have received for such week had the applicable State law provided as set forth in section 232(a) (1) and (2) of this Act.

Subsection (c) also provides that to be entitled to a relocation allowance, the worker must relocate within a reasonable time after he applies for such allowance. If the applicant is a worker undergoing vocational training under the provisions of any Federal statute he must relocate within a reasonable time after the conclusion of such training.

Subsection (d) changes the definition and therefore the amounts of the relocation allowances under section 330 of the Trade Expansion Act. "Relocation allowance" is defined as (1) 80 percent of the reasonable and necessary expenses (as specified in regulations prescribed by the Secretary of Labor) incurred in transporting the worker, his family, and their household effects from their present location, and (2) a lump sum payment equivalent to three times the worker's average weekly wage, up to a maximum payment of $500.

Subchapter C.—General Provisions

SEC. 237. AGREEMENTS WITH STATES.

Subsections (a), (b), and (c) of this section provide for agreements between the Secretary and States or State agencies to carry out the functions required under subchapter B. These subsections are substantially the same as section 331 of the Trade Expansion Act. Subsection (d), which provides for review of State determinations made under terms of such agreements differs somewhat from the review provision under section 336 of the Trade Expansion Act.

Subsection (a) authorizes the Secretary to enter into agreements under which States or State agencies will, as agents of the United States: (1) receive applications and provide payments as provided in this chapter; (2) offer testing, counseling, referral to training, and placement services to adversely affected workers applying for payments, where appropriate, and (3) otherwise cooperate in providing payments and services under this chapter.

Subsection (b) states that agreements shall include terms and conditions for amendment, suspension or termination. Subsection (c) requires that agreements shall not deny or reduce unemployment insur-

ance payments to adversely affected workers by reason of any right to payments under this chapter.

Subsection (d) provides that determinations with respect to entitlement to payments made by cooperating State agencies under agreements with the Secretary shall be subject to review in exactly the same manner and to the same extent as determinations under the applicable State law. Section 336 of the Trade Expansion Act provided for such review to the maximum extent practicable and consistent with the worker assistance provisions of that Act. Subsection (d) has the effect of channeling all questions arising from determinations by State agencies under subchapter B through the normal State review procedure.

SEC. 238. ADMINISTRATION ABSENT STATE AGREEMENT.

Subsection (a) authorizes the Secretary to arrange by regulations for performance of necessary functions under subchapter B where there is no agreement in force with a State or State agency. Among the functions to be carried out is provision of a fair hearing for any worker whose application for payments is denied. This provision follows the terms of 5 U.S.C. § 8503(c), a section that states the procedures for provision of unemployment compensation to Federal employees absent a State agreement to administer that compensation program.

Subsection (b) provides for review by the courts of final determinations under subsection (a) of entitlement to payments under subchapter B in the same manner and to the same extent as is provided by 42 U.S.C. § 405(g), the judicial review provision for the social security program. Section 336 of the Trade Expansion Act provides that determinations as to entitlement of indivdiuals for adjustment assistance shall be final and not subject to court review except as provided in the Secretary's regulations.

SEC. 239. PAYMENTS TO STATES.

This section provides that the State agencies pay supplemental payments out of funds advanced to them from the Federal Treasury.

The section eliminates the requirement of section 332(a)(2) of the Trade Expansion Act that the Federal Government reimburse a cooperating State for the unemployment compensation paid to a worker who qualified under State law to receive such compensation. Previously, if the Federal Government determined that such a worker was unemployed due to trade concessions, it would reimburse the State the amounts paid out to such a worker for unemployment compensation.

Subsection (b) provides for appropriate fiscal safeguards for funds not spent.

Subsection (c) stipulates that agreements made under this subchapter may include requirements that any State employee certifying or disbursing funds under this agreement be bonded.

SEC. 240. LIABILITIES OF CERTIFYING AND DISBURSING OFFICERS.

Subsection (a), which is identical to section 333 of the Trade Expansion Act, relieves a designated certifying officer, in the absence of gross negligence or intent to defraud the United States, from liability with respect to the payment of any payment certified by him under this chapter.

Subsection (b) provides similar relief from liability for a disbursing officer with respect to any payment by him under this chapter if it was based upon a voucher signed by a designated certifying officer.

SEC. 241. RECOVERY OF OVERPAYMENTS.

This section is identical in substance to section 334 of the Trade Expansion Act.

It provides that if a person has been found to have received any payment to which he was not entitled, as a result of false statements, such person shall be liable to repay such amount to the State agency or to the Secretary. Such recovery may also be made by deducting the amount to which the person was not entitled from any sum payable to him under this chapter.

Any amount repaid to a State agency shall be deposited into the fund from which payment was made, and any amount repaid to the administering agency shall be credited to the current applicable fund from which payment was made.

SEC. 242. PENALTIES.

This section imposes the same penalties as section 335 of the Trade Expansion Act provided for any person who knowingly makes false statements of, or fails to disclose material facts for the purpose of obtaining or increasing for himself or for any other individual any payment authorized to be paid under this chapter or under an agreement under section 237. The offenses are punishable by fines of not more than $1,000 or imprisonment for not more than one year, or both.

SEC. 243. AUTHORIZATION OF APPROPRIATIONS.

Section 243 authorizes the appropriation to the Secretary of such sums as may be necessary from time to time to carry out his functions under this chapter in connection with furnishing payments to workers. Section 243 further provides that sums which are authorized to be appropriated shall remain available until expended.

This provision covers not only payments but also the Secretary's functions throughout chapter 2 in connection with furnishing payments to workers. It includes, for example, funds for the Secretary's functions with respect to subchapter A, and the functions of the Tariff Commission thereunder. The authorization would not, however, include appropriations to defray the expense or cost of actual services furnished workers, under this or any other Federal law.

SEC. 244. TRANSITIONAL PROVISIONS.

Subsection (a) provides that any worker covered by a certification issued under section 302(b)(2) or (c) of the Trade Expansion Act shall be entitled to the rights and privileges provided in the worker assistance chapter of that Act as existing prior to the date of enactment of this Act. Workers so covered may therefore apply for trade readjustment allowances under the terms and conditions of the Trade Expansion Act and will continue to receive assistance under that Act to the extent of their eligibility.

Subsection (b) provides for cases where a group of workers or their authorized representative has filed a petition under section 301(a)(2) of the Trade Expansion Act, such filing was more than four months prior to the effective date of this Act, the Tariff Commission has not rejected the petition, and the President or his delegate has not issued

a certification under 302(c) of the Trade Expansion Act to the petitioning group. In such circumstances, the group or its representative may file a new petition under section 221 of this Act, not later than 90 days after the effective date of the Act, and shall be entitled to the rights and privileges provided in this chapter. For purposes of section 223(b)(1), the petition date shall be the original filing date under the Trade Expansion Act, and section 223(b)(2) shall not apply to workers covered by a certification issued pursuant to a petition meeting the requirements of this subsection.

Subsection (b) attempts to prevent inequitable cutoffs of assistance that would occur because pending Trade Expansion Act petitions may not be decided upon before the effective date of the new Act. While a group may file another petition under the new Act, workers covered by the petition may be ineligible for assistance because the new filing date is later than the original Trade Expansion Act filing. The provision in subsection (b) for using the earlier date in pending cases, and not applying the six-month cutoff of section 223(b)(2), is intended to meet this problem.

Subsection (c) provides that the Tariff Commission shall make certain materials available to the Secretary on request. The data involved is derived from section 301 Trade Expansion Act investigations concluded within the two years before the date of enactment of this Act which did not lead to either affirmative or negative Presidential action under section 302(a)(3) or 302(c) of the Trade Expansion Act.

SEC. 245. DEFINITIONS.

This section, except for some deletions, substantially adopts the definitions of section 338 of the Trade Expansion Act. Those terms which have been deleted are "average weekly manufacturing wage," "remuneration," "week," and "week of unemployment."

Subsection (1) defines "adversely affected employment" as work in those firms or subdivisions of firms the employees of which have been declared eligible to apply for assistance.

Subsection (2) defines "adversely affected worker" as an individual who has been partially or totally separated because of lack of work in the affected firm, or subdivision thereof, or totally separated from the firm in a subdivision of which such adversely affected employment exists.

Subsection (3) defines "average weekly wage." A person's average weekly wage is one-thirteenth of the total salary paid that person in that quarter, out of the first four of five completed quarters preceding his separation, in which the person's salary was the highest.

Subsection (4) defines "average weekly hours" as the average number of hours worked by the individual in the affected employment, and not including overtime, in the 52 weeks (excluding weeks of sickness or vacation) preceding the week in which partial or total separation occurred.

Subsection (5) defines "total separation" as the complete separation of the worker from the firm in which some adversely affected employment exists.

Subsection (6) defines "partial separation" as occurring when the worker has had his hours of work reduced to 80 percent or less of his average weekly hours and his wages reduced to 75 percent or less of his average weekly wage in the affected employment.

Subsection (7) defines "State" to include the District of Columbia and the Commonwealth of Puerto Rico and the "United States" to include both.

Subsection (8) defines "State agency" as the agency of the particular State which administers the relevant State law.

Subsection (9) defines "State law" as the unemployment insurance law of the particular State that was approved by the Secretary of Labor as provided by section 3304 of the Internal Revenue Code of 1954.

Subsection (10) defines "unemployment insurance" as those unemployment benefits payable to an individual through any State or Federal unemployment insurance law.

SEC. 246. ADMINISTRATIVE PROVISION.

This section provides that the Secretary shall prescribe necessary regulations to implement this chapter, in coordination with the Special Representative for Trade Negotiations.

TITLE III.—RELIEF FROM UNFAIR TRADE PRACTICES

The purpose of this title is to consolidate and revise the four principal statutes dealing with unfair trade practices of foreign countries.

The first chapter deals with responses to unfair foreign import restrictions and export subsidies from foreign countries to third country markets which displace competitive United States exports. This chapter revises and updates section 252 of the Trade Expansion Act ("Foreign Import Restrictions").

The second chapter makes a number of amendments to the Antidumping Act of 1921. The third chapter contains amendments to section 303 of the Tariff Act of 1930 on countervailing duties, including their application to duty-free goods subject to an affirmative finding of injury to domestic industry.

The fourth chapter revises section 337 of the Tariff Act of 1930 with respect to patent infringements. Companion legislation will authorize the Federal Trade Commission to investigate and regulate unfair methods of competition in import trade other than patent infringement.

CHAPTER 1.—FOREIGN IMPORT RESTRICTIONS

SEC. 301. RESPONSES TO UNFAIR FOREIGN IMPORT RESTRICTIONS AND EXPORT SUBSIDIES.

This section revises and expands the authority of the President under section 252 of the Trade Expansion Act to respond to unreasonable or unjustifiable foreign trade restrictions or discriminatory or other acts which burden or restrict United States commerce.

1. Authority to Respond to Unfair Trade Practices

Subsection (a) authorizes the President to take action (retaliate) against any foreign country which (1) maintains unjustifiable or unreasonable tariff or other import restrictions (including variable

levies) which impair trade commitments made to the United States or which burden, restrict, or discriminate against United States trade; (2) engages in unjustifiable or unreasonable discriminatory or other acts or policies, such as nontariff barriers, which directly or indirectly burden or restrict United States trade; or (3) subsidizes its exports to third countries which substantially reduce sales of competitive United States exports to such countries.

"Unjustifiable" refers to restrictions or policies which are illegal or inconsistent with international obligations such as the GATT. "Unreasonable" refers to restrictions or policies which are not necessarily illegal but which, for example, nullify or impair benefits within the meaning of GATT Article XXIII. The President shall make the judgment as to what constitutes an unjustifiable or unreasonable measure and no GATT determination is required.

The President is required to take all appropriate and feasible steps to obtain the elimination of such restrictions or subsidies. The President has discretionary authority to refrain from providing benefits of trade agreement concessions to the country. He also may impose duties or other import restrictions at any level and for such time as he deems appropriate, on a most-favored-nation basis or only on the products imported from one or more offending foreign countries.

This subsection makes a number of changes in existing law. First, it removes the distinction formerly contained in section 252(a)(3) of the Trade Expansion Act between agricultural and non-agricultural products, whereby the President had greater authority to retaliate against unjustifiable foreign import restrictions on agricultural products. The effect of this distinction in section 252 was to limit the President's authority to act against unfair practices on non-agricultural products to suspending, withdrawing, or preventing the application of trade agreements concessions. The new provision would enable the President to impose any type of import restriction against unfair foreign import restrictions or subsidies on any product.

Second, the subsection extends the President's retaliation authority to cases in which a foreign country provides subsidies or equivalent incentives in connection with its exports to third country markets which substantially reduce sales of competitive United States exports in those markets. This authority is not contained in section 252 of the Trade Expansion Act.

Third, the subsection (a) authorizes action against "unreasonable" restrictions or other policies to the same extent authorized against "unjustifiable" restrictions. Section 252 provided less authority to deal with unreasonable than with unjustifiable measures. In particular, section 252(c) required that the President, in taking action against "unreasonable" restrictions, have due regard for the international obligations of the United States.

While subsection (b) requires the President to consider the relationship to international obligations before he takes action under subsection (a), this requirement shall not constitute a limitation on the legal scope of the President's authority to take action in the national interest. However, it is intended that the President shall depart from international obligations only in rare cases where adequate international procedures for dealing with unjustifiable or unreasonable actions are not available.

Fourth, subsection (a) provides that the President may act on a most-favored-nation basis or otherwise. Although in most cases retaliation might be taken only against one or more offending countries such as contemplated by GATT Article XXIII, cases could arise in which it is appropriate to act on a most-favored-nation basis, such as under GATT Article XXVIII.

2. Hearings

Subsection (c) parallels in a simplified manner the substance of section 252(d) of the Trade Expansion Act. It requires the President to provide an opportunity for interested persons to bring to his attention any of the foreign restrictions, acts or policies referred to under subsection (a). However, the President may take action against foreign restrictions without awaiting these views.

CHAPTER 2.—ANTIDUMPING DUTIES

SEC. 310. AMENDMENTS TO THE ANTIDUMPING ACT OF 1921.

This section amends the Antidumping Act of 1921 with respect to time limits on dumping investigations and the withholding of appraisement, purchase price, and exporter's sales price. It also provides for public hearings on the record and judicial review of affirmative determinations by the Secretary of the Treasury and the Tariff Commission.

1. Time Limits

Subsection (a) amends section 201(b) of the Antidumping Act to provide that the Secretary of the Treasury or his delegate must within six months or, in more complicated investigations, within nine months after a question of dumping is raised by or presented to him, make the determination required under present law as to whether there is reason to believe or suspect that the purchase price of imported merchandise is less, or the exporter's sales price is less or likely to be less, than the foreign market value or constructed value of the merchandise.

If the Secretary's determination is affirmative, then under paragraph (2) of section 201(b), as amended, he must publish notice thereof in the Federal Register and require the withholding of appraisement of any such merchandise entered on or after such date of publication. Paragraph (2) also retains the present provision in the Antidumping Act which authorizes the Secretary to order that such withholding be made effective with respect to merchandise entered on or after an earlier date, but in no case may the effective date of withholding be earlier than the 120th day before the question of dumping was raised by or presented to him.

Paragraph (3) of section 201(b) provides that if the Secretary's determination is negative, notice thereof must be published in the Federal Register, but the Secretary may within three months thereafter order the withholding of appraisement if he then has reason to believe or suspect that dumping is involved. An order of withholding of appraisement in that case is treated in the same manner as is a withholding under paragraph (2) of section 201(b). Section 201(b) as amended by the bill also provides that the question of dumping is deemed to have been raised by or presented to the Secretary on the date on which a notice is published in the Federal Register that in-

formation relating to dumping has been received in accordance with regulations prescribed by him.

Paragraph (3) of section 201(b) also provides that if the Secretary determines that the circumstances are such that a determination cannot reasonably be made within nine months, he shall publish notice to that effect, and in such cases may take up to twelve months after the question of dumping was raised to reach a determination. These time limits are modeled after the limits presently set forth in the Antidumping Regulations issued by the Treasury Department.

2. Hearings

Subsection (b) incorporates a new provision in the Antidumping Act which requires the Secretary of the Treasury or the Tariff Commission to hold a hearing on the record prior to any determination under subsection (a). The transcript of the hearing plus all papers filed in connection with the investigation will constitute the exclusive record for determination and, with the exception of material treated as confidential or *in camera*, shall be available to all persons.

Paragraph (3) requires the Secretary and the Tariff Commission to include in the record and publish in the Federal Register their determinations, whether affirmative or negative, together with a statement of the bases for their findings and conclusions on all material issues presented on the record

3. Purchase Price

Subsection (c) makes three amendments to section 203 of the Antidumping Act, dealing with purchase price.

The first amendment deals with the treatment to be given export taxes in the computation of purchase price. Section 203 of the Antidumping Act, which defines purchase price and sets forth the adjustments to be made thereto, provides that any export tax imposed on the exported product must be *added to* the purchase price if it is not already included therein. Section 204, on the other hand, which defines exporter's sales price, provides that any export tax must be *subtracted from* exporter's sales price if it is included therein.

The "purchase price" treatment of an export tax is anomalous. An export tax increases the price of an exported product and, if not subtracted, would distort any dumping price comparison made between the export price and the home market price of a particular product. The distortion would artificially reduce or eliminate any dumping margins that might otherwise exist. The present treatment of export taxes under the exporter's sales price provision is proper and the proposed amendment would make the section on purchase price symmetrical with the section on exporter's sales price in this regard.

The second amendment deals with the treatment of certain types of tax rebates in computing purchase price. The amendment would conform the standard in the Antidumping Act to the standard under the countervailing duty law, thereby harmonizing tax treatment under the two statutes. With the amendment, no adjustment to the advantage of the foreign exporter would be permitted for indirect tax rebates unless the direct relationship of the tax to the product being exported, or components thereof, could be demonstrated.

The Treasury Department considers rebates or remissions of taxes not directly related to an exported product or its components as being bounties or grants within the meaning of the countervailing duty law. Under the Antidumping Act, Treasury is required in its calculation of purchase price to add back to the price at which merchandise is sold to the United States "the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller, *in respect to the manufacture, production, or sale of the merchandise*, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States." (Emphasis added.) The "adding back" of such taxes under the Antidumping Act would have the effect of reducing or eliminating any dumping margins that may exist. The language of the Antidumping Act "in respect to the manufacture, production or sale of the merchandise" is somewhat broader than the standard applied to tax rebates under the countervailing duty law (directly related to the exported products or its components) and could result in inconsistency of treatment of tax rebates under the two laws.

The third amendment would assure that imported merchandise benefitting from tax rebates which the Secretary has already determined to be a bounty or grant, and thus subject to countervailing duties would not be unfairly penalized by subjecting them to antidumping duties as well by reason of the same tax rebates.

4. Exporter's Sales Price

Subsection (c) also makes three amendments to section 204 of the Antidumping Act dealing with exporter's sales price.

The first amendment adds a fifth item to the list of those costs, expenses, or taxes which must be subtracted from the resale price in the United States to an unrelated purchaser in the computation of exporter's sales price. This amendment provides that whenever merchandise subject to an antidumping investigation or finding is imported by a person or corporation related to the exporter, i.e., an exporter's sales price situation, and the merchandise is changed by further process or manufacture so as to remove it from the class or kind of merchandise involved in the proceeding before it is sold to an unrelated purchaser, such merchandise will not escape the purview of the law, but appropriate adjustments for the value added will be made to arrive at an exporter's sales price. The amendment will codify existing Treasury Department regulations on the subject and eliminate any question concerning the scope or intent of the Act to reach such merchandise which has been further processed or manufactured.

The second and third amendments are identical to the amendments of section 203 of the Act concerning the treatment of certain tax rebates or remissions in the computation of purchase price, and would apply these same standards in the computation of exporter's sales price.

CHAPTER 3.—COUNTERVAILING DUTIES

SEC. 330. AMENDMENTS TO SECTION 303 OF THE TARIFF ACT OF 1930.

This section effects four major changes in the present countervailing duty statute:

(1) it provides for the application of countervailing duties to duty-free imports;

(2) it requires a determination of material injury by the Tariff Commission for the application of countervailing duties to duty-free imports, for so long as such a determination is required by international obligations;

(3) it provides that the Secretary of the Treasury must determine within one year if a bounty or grant is being paid or bestowed; and

(4) it provides discretionary authority for the Secretary to bar the application of countervailing duties in any particular case if he determines that such action would be detrimental to United States economic interests, or that existing quantitative limitations are an adequate substitute for the imposition of countervailing duties.

1. Application to Duty-Free Goods

Subsection 303(a)(1) as amended removes the restriction on the application of countervailing duties to dutiable merchandise only, thereby making the law applicable also to duty-free merchandise. Any articles entered or withdrawn from warehouse free of duty as a result of preferential treatment granted under Title IV shall be considered nondutiable for the purpose of imposing countervailing duties. Subsection (a)(2) provides that countervailing duties may be assessed on duty-free merchandise only if the Tariff Commission makes an affirmative determination of material injury concerning the merchandise pursuant to subsection (b)(1).

This injury requirement will apply only so long as such a determination is required by the international obligations of the United States, i.e., under the GATT. A principal reason why this requirement is being introduced is that the GATT requires an injury determination generally in countervailing duty cases but the United States prior countervailing duty law was in existence at the time GATT was created and the absence of an injury requirement falls under the "grandfather clause" of the Protocol of Provisional Application. The question of injury requirements in United States and other countervailing duty statutes is currently under consideration in the GATT. The purpose of this statutory provision is to comply with the technical requirements of the GATT without prejudicing the positions that the United States may finally take on this question.

2. Injury Determination

Subsection (b) provides that whenever the Secretary of the Treasury has determined that a bounty or grant is being paid or bestowed on duty-free merchandise, the Tariff Commission must conduct an investigation to determine whether a United States industry is being or is likely to be materially injured, or is prevented from being established, due to imports of such merchandise. Subsection (b) also requires the suspension of liquidation of all such articles on or after the 30th day after the date of publication in the Federal Register of the Secretary's determination that a bounty or grant is being paid or bestowed. If the decision of the Commission is in the affirmative, countervailing duties will be assessed; a negative determination would terminate the proceedings. This procedure closely parallels the procedures followed under the Antidumping Act with respect to the determination of injury.

93-290 O - 73 - 6

3. Public Notices

Subsection (a) (4) codifies present practice under Treasury Department regulations by providing for the publication in the Federal Register of a notice of the initiation of a countervailing duty investigation whenever the Secretary concludes that a formal investigation is warranted. Subsection (a) (5) requires that all determinations by the Secretary and by the Tariff Commission under the law be published in the Federal Register, as under present practice.

4. Time Limitations

Subsection (a) (1) adds the requirement to existing law that the Secretary of the Treasury must determine, within 12 months after the date on which the question is presented to him, whether any bounty or grant is being paid or bestowed. Subsection (a) (4) provides that the 12-month time limit on the investigation by the Secretary will begin from the date the notice of the initiation of a countervailing duty investigation is published in the Federal Register.

Subsection (c) requires the application of countervailing duties on dutiable or duty-free merchandise on or after the 30th day after the date of publication in the Federal Register of the Secretary's determination that a bounty or grant is being paid or bestowed. In the case of duty-free merchandise, such duties will only be assessed following an affirmative injury determination by the Tariff Commission, but will be effective as of the date of suspension of liquidation, provided for in subsection (b).

Subsection (a) (3) makes no change in existing law which provides for a determination or estimate by the Secretary of the net amount of each bounty or grant. Subsection (a) (5) repeats the requirement under existing law that the Secretary make regulations necessary to identify articles and to assess and collect duties under section 303.

Subsection (c) provides that the amendments made by section 330 (a) take effect on the date of the enactment of this Act, except that the last sentence of section 303 (a) (1) (requiring that determination of the existence of a bounty or grant be made within 12 months after the question is presented) shall apply only to questions regarding bounties presented on or after such date of enactment.

5. Discretionary Authority

Subsection (d) provides that the imposition of countervailing duties shall not be required in any case where the Secretary determines, after seeking information and advice from other agencies, that the imposition of such duties would result or be likely to result in significant detriment to the economic interests of the United States, or that an existing quantitative limitation is an adequate substitute for the imposition of countervailing duties.

CHAPTER 4.—UNFAIR PRACTICES IN IMPORT TRADE

SEC. 350. AMENDMENTS TO SECTION 337 OF THE TARIFF ACT.

Under section 337 of the Tariff Act, the President has discretion to direct the issuance of an exclusion order against articles concerned in unfair methods of competition, on the basis of a Tariff Commission investigation and report that the statutory criteria have been met.

The major change made by this chapter is to limit section 337 to patent infringement. A companion statute will authorize the Federal Trade Commission to investigate and regulate other unfair methods of competition.

Under section 337, as amended by section 350 of this Act, the Tariff Commission will direct the issuance of exclusion orders in cases of patent infringement and the President will not make any determinations. However, in those cases in which the validity or enforceability of the complainant's patent is being litigated in the Federal Courts, the Commission will permit imports under bond, payable to the patentee, pending a final determination by the courts.

1. Patent Infringement Declared Unlawful

Subsection (a) provides that the importation of articles into the United States which infringe a United States patent is unlawful, and when such infringement is found by the Tariff Commission to exist, it shall be dealt with as provided under this section and any other provisions of law. This section no longer requires a showing of injury to, or prevention of the establishment of, an industry, nor does it require that the industry in question be economically and efficiently operated. Section 337(a) of the Tariff Act (19 U.S.C. 1337a), which is not amended, provides that the importation of a product made, produced, or processed under or by means of a process covered by the claims of a letters patent, shall have the same status for purposes of section 317 as the importation of a product which infringes a patent.

2. Investigations by the Commission and Exclusion Orders

Subsection (b) provides that the Commission is authorized to investigate any alleged violation on complaint under oath or upon its own initiative. The burden of establishing a *prima facie* showing of an alleged violation shall be on the complainant, or on the Commission if it investigates on its own initiative. Subsection (c) provides that whenever the Commission finds the existence of the violation described in subsection (a), it shall order that the articles concerned be excluded from entry into the United States and the Secretary of the Treasury shall enforce any such order.

3. Deferral to Courts on Patent Validity

Subsection (c) further provides that whenever patent validity is challenged by the respondent and a *bona fide* challenge to patent validity is either pending in a suit or the respondent files such a suit, or patent misuse is claimed by the respondent and a *bona fide* claim of misuse is pending in a court action and the court's decision would be dispositive of the issue, the Tariff Commission shall continue its proceedings on all other issues. If the Commission finds favorably to the patentee, it will issue an exclusion order conditional on the results of the court proceedings. In any such case, imports will be permitted under a bond, in favor of the patentee, in an amount appropriate to protect his asserted rights.

4. Termination of Exclusion Orders

Subsection (d) provides that any refusal of entry under this section shall continue until the patent expires or until the Commission (on its

own motion or at the request of any interested party) finds that the continued exclusion is no longer necessary to prevent the unlawful method of competition. Thus, for example, if the infringer becomes a licensee of the domestic patentee, the parties could request the Commission to rescind the exclusion order.

5. Issuance of Temporary Exclusion Orders

Subsection (e) authorizes the Tariff Commission to issue temporary exclusion orders pending the completion of its full investigation if a *prima facie* showing of a violation has been established, and if immediate and substantial harm to the patentee would result if a temporary order were not issued. In such cases, however, imports will be permitted under a bond in favor of the patentee.

6. Public Hearings

Subsection (f) provides that public hearings shall be held in connection with investigations under this section and that a transcript shall be made.

7. Judicial Review

Subsection (g) authorizes any person adversely affected by an action of the Commission to secure judicial review in the United States Court of Customs and Patent Appeals. If the court decides to stay the issuance of an exclusion order, it shall provide for the imposition of a bond in favor of the patentee to protect his rights pending determination of the appeal.

8. Definitions

Subsection (h) provides, as under existing law, that the term "United States" includes all possessions of the United States except the Virgin Islands, American Samoa, and the Island of Guam.

TITLE IV.—INTERNATIONAL TRADE POLICY MANAGEMENT

The purpose of this title is to provide certain permanent authorities to the President which enable more flexible tools for the management of trade policy.

Section 401 grants explicit and more flexible authority than under existing legislation for the President to impose or liberalize restrictions on imports to deal with serious balance-of-payments problems.

Section 402 permits the United States to exercise fully its GATT rights and obligations. It provides the President authority at least as extensive as his authority under trade agreements, and authority to maintain trade agreement rates in the absence of a trade agreement.

Section 403 provides permanent authority for the President to negotiate and implement trade agreements of limited scope.

Section 404 provides permanent authority for the President to compensate foreign countries for increases in United States import restrictions.

Section 405 provides authority for the President to reduce import restrictions temporarily for the purpose of restraining inflation.

Section 406 requires the reservation of certain articles from reduc-

tions in duties or other import restrictions during the course of trade negotiations.

Section 407 requires the application of trade agreement concessions on a most-favored-nation basis unless a deviation is specifically authorized.

Section 408 provides authority for the President to terminate at any time actions to implement trade agreements.

Section 409 provides that all trade agreements are subject to termination or withdrawal at the end of a specific time period.

Section 410 provides for public hearings in connection with certain actions under this title.

Section 411 authorizes annual appropriations to the GATT.

SEC. 401. BALANCE OF PAYMENTS AUTHORITY.

Section 401 provides the President with explicit and more flexible authority than under existing legislation to impose one or more special import measures for a period he deems necessary to deal with the United States balance-of-payments position in specific situations:

(1) To impose a temporary import surcharge and/or temporary quantitative limitations on imports in the case of a serious United States balance-of-payments deficit, or to cooperate in correcting an international balance-of-payments disequilibrium.

(2) To reduce temporarily or suspend duties and/or import limitations or other restrictions in the case of a persistent balance-of-payments surplus.

The President may suspend, modify, or terminate, in whole or in part, any action under this section at any time, consistent with the provisions of the section.

1. Balance-of-Payments Deficit or International Disequilibrium

In the case of a serious United States balance-of-payments deficit, or with respect to cooperative efforts to correct an international balance-of-payments disequilibrium, subsection (a) authorizes the President to impose a temporary surcharge in the form of duties on any dutiable or duty-free articles, and/or to limit temporarily imports of such articles through the use of quotas. Quotas may be imposed if this type of measure is contemplated as a legitimate instrument to deal with balance-of-payments problems by international agreements to which the United States is a party. This section does not require approval of any kind of the use in a particular instance of these measures by the United States for balance-of-payments purposes.

United States cooperation in correcting a fundamental international balance-of-payments disequilibrium as reflected in payments positions of other countries is authorized when allowed or recommended by the IMF. Multilateral cooperation could include, for example, the implementation of joint actions to restrict imports from a country running large and consistent surpluses if that country refuses to take measures to ameliorate the payments disequilibrium.

The criteria under subsection (b) for the President determining that a serious balance-of-payments deficit exists for purposes of this section are a substantial deficit in the United States balance-of-payments over a period of four consecutive calendar quarters, or a serious decline in the United States net international monetary reserve po-

sition, or a significant alteration in the foreign exchange value of the dollar, and the expectation that one or more of these conditions would continue in the absence of corrective measures. A substantial balance-of-payments deficit will be based on an average of four consecutive calendar quarters. A serious decline in net international monetary reserves will be based on a worsening of the United States position in absolute terms. The use of this authority with respect to a significant change in the exchange rate of the dollar applies to situations in which a temporary surcharge might be a more appropriate measure than permitting an immediate depreciation in the exchange rate of the dollar. This provision is not intended, however, to provide authority to alter trends in foreign exchange rates.

Subsection (c) sets forth the principle that an import surcharge be applied on a most-favored-nation basis, and quotas be applied on a basis which shall aim at a distribution of trade approaching that which foreign countries might expect in the absence of quotas. However, the President may act inconsistently with these principles if necessary to achieve the objectives under this section. In determining what action to take, the President must consider the relationship of such actions to United States international obligations.

Subsection (d) provides that actions taken under this balance-of-payments provision must be applied uniformly to a broad range of imported products. However, the President may exempt certain articles or groups of articles because of the needs of the United States economy relating to such factors as the unavailability of domestic supply at reasonable prices and the necessary importation of raw materials. This authority would permit the nonapplication of an import surcharge to duty-free imports, for example. The authority to implement import restricting measures or to exempt particular products from such measures cannot be used for the purpose of protecting individual domestic industries from import competition.

Subsection (e) provides that if the President exercises his authority to impose quotas, imports of the articles cannot be limited to a level less than the quantity or value imported during the most recent period which the President determines to be representative. Since the quotas are for balance-of-payments purposes and not designed to alter trends in the growth of imports of particular products, any increase since the end of the representative period in the domestic consumption of the articles and of like or similar articles must also be taken into account.

2. Balance-of-Payments Surplus

The criteria for the President determining that a persistent balance-of-payments surplus exists for purposes of this section are a substantial surplus in the balance-of-payments over four consecutive calendar quarters, large increases in United States international monetary reserves in excess of needed levels, or significant appreciation in the exchange value of the dollar, and the expectation that one or more of these conditions will continue in the absence of corrective measures.

As in the case of a balance-of-payments deficit, a substantial surplus will be determined on the basis of an average of four consecutive calendar quarters. Large increases in monetary reserves will be measured in absolute terms. Significant appreciation in the exchange rate of the

dollar applies to those situations where the exercise of the authority to reduce or suspend tariffs or other import restrictions would be preferable to an increase in the value of the dollar which might otherwise be required. It would not be used to oppose long term trends in foreign exchange markets.

In the case of a persistent balance-of-payments surplus, subsection (a) authorizes the President to reduce or suspend temporarily tariffs or other import restrictions. Subsection (f) stipulates that such actions must be applied on a most-favored-nation basis. However, the President shall not apply this authority to any product where he determines such action would cause or contribute to material injury to domestic firms or workers, impair the national security, or be otherwise contrary to the national interest.

SEC. 402. WITHDRAWAL OF CONCESSIONS AND SIMILAR ADJUSTMENTS.

The primary purpose of section 402 is to permit the United States to exercise fully its rights and obligations under the GATT and other trade agreements, and to make the President's domestic authority at least as extensive as his authority under trade agreements. This section provides the President authority to withdraw, suspend, or terminate concessions pursuant to United States rights under trade agreements and, equally important, the authority to maintain trade agreement concession rates in the absence of a trade agreement. This authority enables the President to exercise the same rights as other countries have with respect to trade agreements, thereby providing additional flexibility and leverage in international negotiations.

1. Withdrawal, Suspension, or Termination of Concessions

Subsection (a) authorizes the President to give domestic legal effect to the withdrawal or suspension of concessions to any foreign country or to the termination of a trade agreement, in order to exercise United States rights or obligations under trade agreements. For this purpose the President may increase duties or other import restrictions, impose additional restrictions, or take other actions to withdraw, suspend, or terminate, in whole or in part, the application of the trade agreement to the extent and for such time as necessary or appropriate. These actions may be applied on other than a most-favored-nation basis only to the extent such action is not inconsistent with United States international obligations.

As provided under subsection (c), however, the President may not increase a duty to a rate more than 50 percent ad valorem (or ad valorem equivalent) or more than 50 percent above the Column 2 rate, whichever is greater. For example, the trade agreement rate of duty currently applied to automobiles is 3 percent and the Column 2 rate is 10 percent. If the United States withdrew its obligations to apply the 3 percent rate, the President could increase the rate to any level up to 50 percent ad valorem.

If, for example, the United States withdraws a tariff concession made to a particular country under GATT Article XXVIII, the President could effect a corresponding increase in a limited States rate of duty. This authority might also be used in cases where the United States is owed compensatory tariff reductions as a result of a foreign country imposing import restrictions on United States goods for valid

reasons, e.g., balance-of-payments needs (Article XII), to remedy domestic injury (Article XIX), or under its renegotiation rights (Article XXVIII). If this compensation is not forthcoming or is judged inadequate, the President is authorized to increase duties or other import restrictions to restrike the balance of concessions.

2. Maintaining Rates After Termination of a Trade Agreement

Subsection (b) provides the President authority to maintain existing levels of duties or other import restrictions even after a trade agreement is terminated. The issue of maintaining existing rates when a trade agreement is terminated became a potential problem, for example, in the case of tariffs on petroleum when Venezuela announced its intention to terminate its bilateral trade agreement with the United States. Had this happened, the tariff to be applied arguably could have been the much higher, pre-agreement rate. Existing domestic law (section 251 of the Trade Expansion Act) would have required this rate to be applied on a most-favored-nation basis. In that type of situation, administrative control over United States tariff rates could be lost, with foreign actions potentially determining United States rates of duty.

SEC. 403. RENEGOTIATION OF DUTIES.

The section provides permanent authority to negotiate and implement supplemental trade agreements with foreign countries of a limited scope for the purpose of making adjustments to deal with changed circumstances while maintaining an overall balance of concessions under existing agreements. The authority permits the President to negotiate agreements of a limited nature even after expiration of his basic negotiating authority provided under section 101.

Subsection (a) provides the President authority to enter into agreements with foreign countries at any time to modify or continue any existing duty, to continue existing duty-free or excise treatment, or to impose additional duties. This authority could be used to eliminate tariff discrepancies and anomalies that exist on certain products with Canada, for example.

Under subsection (b) duty reductions or the continuation of duty-free treatment under such agreements cannot affect more than two percent of the total value of United States imports during the most recent twelve-month period. Moreover, the same articles cannot be subjected to a second agreement under this section within a five-year period. The subsection envisions the staged implementation of duty reductions, for example, over a five-year period, if appropriate.

Subsection (c) limits duty reductions under this authority to a cut of 20 percent from existing duty levels. (Authority for duty reductions granted as compensation for increases in United States import restrictions is contained in section 404.) Subsection (c) also sets a ceiling on duty increases under this authority to not more than 50 percent above the Colume 2 rate or 50 percent ad valorem, whichever is greater.

SEC. 404. COMPENSATION AUTHORITY.

The purpose of this section is to provide the President with permanent authority to compensate foreign countries for increases in United States tariffs or other import restrictions, in order to maintain the level of reciprocal and mutually advantageous concessions. Domestic author-

ity to reduce duties for purposes of compensation under section 201 of the Trade Expansion Act expired on June 30, 1967.

Section 404 requires the President to afford an opportunity, to the extent required by international obligations, for foreign countries affected by import restrictions imposed by the United States to consult with the United States with respect to concessions as compensation. This provision confirms the President's existing authority. This section also grants the President discretionary authority to enter agreements with such countries to grant new concessions in the form of modification or continuation of any duty or continuation of existing duty-free or excise treatment to the extent he determines necessary or appropriate to maintain a general level of reciprocal and mutually advantageous concessions.

Subsection (c) limits duty reductions to not more than 50 percent below the existing rate. This limitation does not apply to duties of 5 percent ad valorem (or ad valorem equivalent) or below. The President could stage such duty reductions if appropriate.

The principal use of this authority is likely to be in cases where the President has provided import relief pursuant to section 203. In such cases, the United States is required by GATT Article XIX to consult with foreign countries having an interest as exporters of the products concerned. If a satisfactory arrangement is not made, i.e., if compensation is not forthcoming, countries adversely affected have the right under GATT to restrike the balance of concessions by increasing or imposing equivalent new barriers on United States exports. If, on the other hand, the President can offer corresponding or offsetting tariff reductions on other articles, the balance of concessions can be restored without damaging United States exports.

This authority is also required for actions taken pursuant to section 402, for example, if the United States unilaterally withdraws tariff concessions under GATT Article XXVIII. The authority could also be used in cases where the President has retaliated on a most-favored-nation basis against unfair trade practices under section 301 and compensation is owed to those countries which have suffered the incidental effects of retaliation aimed at a single country.

This compensation authority may also be used in connection with actions taken under section 403 to increase United States tariffs or other import restrictions. One example would be where the United States and another country agreed that some United States tariffs would be lowered and others raised (as part of a package in which that country makes reciprocal concessions or rate increases), third countries adversely affected by the duty increases would have a right to demand compensation and, in lieu thereof, to retaliate against United States exports.

SEC. 405. AUTHORITY TO SUSPEND IMPORT BARRIERS TO RESTRAIN INFLATION.

Section 405 provides the President authority to temporarily reduce import barriers as a means to restrain inflation.

1. President's Authority

Subsection (a) authorizes the President, during a period of sustained or rapid price increases, to reduce or suspend duties and in-

crease the level of imports which may enter under other import restrictions on any article or group of articles on a temporary basis, if he determines that supplies of such articles are inadequate to meet domestic demand at reasonable prices. There is no limitation on the amount of the decrease in duty or increase in quota levels which the President may auhorize. Subsection (c) provides that the President may modify or terminate, in whole or in part, any action taken under subsection (a), to the extent consistent with the purposes and limitations of this section.

Subsection (d) requires the President within 30 days of the taking of any action under this section to notify both Houses of Congress of the nature and reason for such action.

2. Limitations on Authority

Subsection (b) stipulates that the President shall not exercise the judgment, such action would cause or contribute to material injury to firms or workers in any domestic industry, impair the national security, or otherwise be contrary to the national interest.

Subsection (b) further provides that actions taken under subsection (a) shall not affect more than 30 percent of the estimated total value of United States imports of all articles during the time the actions are in effect. Subsection (e) limits the duration of any action taken under this section to one year, unless a longer period is specifically authorized by law.

SEC. 406. RESERVATION OF ARTICLES FOR NATIONAL SECURITY OR OTHER REASONS.

Subsection 406(a) directs the President to exclude any article from any action under this Act which would involve the reduction or elimination of any duty or other import restriction if he determines such action would threaten to impair the national security. This subsection parallels section 232(a) of the Trade Expansion Act which authorizes the President to exclude for reasons of national security any articles from actions taken pursuant to section 201(a) of the Trade Expansion Act or section 350 of the Tariff Act of 1930. Section 232 of the Trade Expansion Act is not repealed by this Act.

Subsection (b) requires the President to reserve any article from negotiations or actions contemplating the reduction or elimination of a duty or other import restriction under Title I or under sections 403, 404, and 405 on which there is in effect any import relief measures under section 203 of this Act or section 351 of the Trade Expansion Act, or any national security action under section 232 of the Trade Expansion Act. This portion of subsection (b) is identical to section 225(a) of the Trade Expansion Act, except that the principles apply to actions under Title IV as well as to five-year trade agreements authority.

Subsection (b) also permits the President, as under section 225(c) of the Trade Expansion Act, to reserve any other article from such negotiations under Title I and IV as he determines appropriate. In making such determinations the President shall take into consideration the information and advice provided by the Tariff Commission under section 111(b) where available, advice from Departments under section 112, and the summary of public hearings provided under section 113.

SEC. 407. MOST-FAVORED-NATION PRINCIPLE.

This section is identical in substance to section 251 of the Trade Expansion Act. Except as otherwise provided in this or any other Act, any duty or other import restriction or duty-free treatment applied in carrying out any action or trade agreement under this or previous Acts shall be applied to direct or indirect imports from all foreign countries. However, certain sections in this Act and prior Acts permit deviations from the most-favored-nation principle. For example, certain nontariff barrier agreements authorized under section 103 could apply only to signatories, and generalized tariff preferences granted under Title VI apply only to beneficiary developing countries.

SEC. 408. AUTHORITY TO TERMINATE ACTIONS.

This section authorizes the President to terminate at any time, in whole or in part, any actions taken to implement trade agreements under this or prior Acts. This is identical in substance to prior authorities contained in section 255(b) of the Trade Expansion Act and section 350(a)(6) of the Tariff Act, which are repealed by this Act. These provisions authorize the President to terminate, in whole or in part, any proclamation made to carry out a trade agreement under those Acts. These termination authorities include the lesser authorities to terminate for a limited period of time, i.e., to suspend and to terminate in part in order to restore, in whole or in part, import treatment existing prior to the implementation of trade agreements.

For example, if trade agreements reduced a tariff rate from the statutory rate of 20 percent to 10 percent, the termination or suspension of the lower rate would put into effect any rate provided by the President above 10 percent, but not exceeding 20 percent ad valorem. Similarly, if trade agreements had increased a rate, the suspension would result in a new rate being established by the President which would not be lower than a rate previously in effect.

SEC. 409. PERIOD OF TRADE AGREEMENTS.

This section is identical in substance to section 255(a) of the Trade Expansion Act. It provides that every trade agreement entered into under Title I and IV shall be subject to termination or withdrawal, upon due notice, at the end of a period specified in the agreement. This period cannot be more than three years from the date on which the agreement becomes effective for the United States. If the agreement is not terminated or withdrawn from at the end of the specified period, it shall be subject to termination or withdrawal thereafter upon not more than six months' notice.

SEC. 410. PUBLIC HEARINGS IN CONNECTION WITH AGREEMENTS UNDER TITLE IV.

Section 410 requires the President to provide for a public hearing prior to the conclusion of any agreement or modification of any duty or other import restriction under section 403 ("Renegotiation of Import Restrictions") or section 404 ("Compensation Authority"). Public hearings shall also be held after the President takes any action under section 402 ("Withdrawal of Concessions and Similar Adjustments") or section 408 ("Authority to Terminate Actions") if requested within 90 days after the action.

Section 113 provides for public hearings in connection with trade agreements under Title I of this Act.

SEC. 411. AUTHORIZATION FOR GATT APPROPRIATIONS.

Section 411 authorizes annual appropriations to finance the United States contribution to the budget of the GATT. This contribution is presently financed from the appropriation made to the Department of State entitled "International Conferences and Contingencies."

TITLE V.—TRADE RELATIONS WITH COUNTRIES NOT ENJOYING MOST-FAVORED-NATION TARIFF TREATMENT

The purpose of this title is to authorize the President to enter into bilateral commercial arrangements to extend most-favored-nation treatment to imports from countries which are currently subject to Column 2 rates of duty. The President may also extend most-favored-nation treatment to countries which become a party to a multilateral agreement to which the United States is also a party, for example, the GATT. The implementation of such agreements or orders is subject to a Congressional veto procedure.

The bilateral agreements must be limited to an initial period of not more than three years, and may be renewable for additional periods, each not to exceed three years. The President may at any time suspend or withdraw, in whole or in part, the application of most-favored-nation treatment. This title also contains a provision designed to protect domestic industries from market disruption caused by increased imports from a country which receives most-favored-nation treatment under this title. The President may apply import relief measures outlined in section 203 to the imports from the country causing injury without taking action on imports from other countries.

In addition, section 706 of this Act repeals the embargo contained in the Trade Agreements Extension Act of 1951 on seven furs and skins the product of the Soviet Union or the People's Republic of China. The Johnson Debt Default Act, which is described under section 507, is also repealed.

SEC. 501. EXCEPTION OF THE PRODUCTS OF CERTAIN COUNTRIES OR AREAS.

This section replaces section 231 of the Trade Expansion Act. Subsection (a) stipulates that except as otherwise provided in this title, the President shall continue to deny most-favored-nation treatment to products imported from any country or area which are subject to Column 2 rates of duty on the date of enactment of this Act. Headnote 3(e), in conformity with section 231 of the Trade Expansion Act, lists the countries to which Column 2 rather than most-favored-nation rates of duty apply.[1] Subsection (b) authorizes the President to withdraw most-favored-nation treatment from any country when he deems it necessary for national security reasons.

SEC. 502. AUTHORITY TO ENTER INTO COMMERCIAL AGREEMENTS.

Subsection (a) authorizes the President to enter into bilateral commercial agreements which would provide most-favored-nation treat-

[1] Albania, Bulgaria, the People's Republic of China, Cuba, Czechoslovakia, East Germany, Estonia, Hungary, Indochina (any part of Cambodia, Laos, or Vietnam under Communist control or domination), North Korea, Kurile Islands, Latvia, Lithuania, Outer Mongolia, Rumania, Southern Sakhalin, Tanna Tuva, Tibet, and the USSR.

ment to imports from countries which currently receive Column 2 rates of duty, provided such agreements will promote the purposes of this Act and are in the national interest. This provision also applies to agreements which have already been entered into, such as the agreement with the Soviet Union signed in October 1972.

As provided under subsection (c), the President is authorized to implement a bilateral commercial agreement, or an order referred to in section 504(a) only if the majority of the authorized membership of neither House of Congress adopts a resolution stating their disapproval of the agreement within 90 days after the President delivers a copy of the agreement or order to the Congress.

Subsection (b) enumerates three provisions which the President is required to include in a bilateral commercial agreement under this title. A bilateral agreement must be limited to an initial period of not more than three years. It must also be subject to suspension or termination at any time for national security reasons, or not limit the right to take actions to protect security interests. An agreement must also provide for consultations to review the operation of the agreement and other relevant matters.

The agreement may be renewed for additional periods, each not to exceed three years, if there has been a satisfactory balance of trade concessions maintained, and if the President determines that any actual or foreseeable trade agreement concessions by the United States resulting from multilateral negotiations are satisfactorily reciprocated by the other party to the agreement.

SEC. 503. ADDITIONAL PROVISIONS.

This section lists five provisions which might be included in a bilateral commercial agreement under this title. The list is illustrative, however, and does not inhibit the President's discretion to include these or any other commercial arrangements. However, the provisions shall not be deemed to affect existing domestic legislation. Inclusion of a provision listed in this section does not constitute separate domestic authority for any action. Although most of these provisions are contained in the trade agreement with the Soviet Union, they would not necessarily be included in agreements negotiated with other countries.

The bilateral agreements may include arrangements to safeguard against domestic market disruption, to protect United States industrial rights and processes, trademarks, and copyrights, and to settle commercial disputes, such as the provision in the agreement with the Soviet Union for third country arbitration. The agreements may also provide arrangements to promote trade, for example, by establishing trade and tourist promotion offices, the sending of trade missions, and facilitating activities of commercial representatives.

SEC. 504. EXTENSION OF MOST-FAVORED-NATION TREATMENT.

Subsection (a) authorizes the President to extend most-favored-nation treatment to imports from any country which has entered into a bilateral commercial agreement which has entered into force under section 502. The President may also issue an order extending most-favored-nation treatment to a country which has become a party to an appropriate multilateral trade agreement to which the United States is also a party, such as the GATT, subject to the Congressional

veto procedure under section 502(c). The application of most-favored-nation treatment shall be limited, however, to the duration of the bilateral agreement or to the period both countries are a party to a multilateral agreement.

Subsection (b) authorizes the President at any time to suspend or withdraw the application of most-favored-nation treatment extended under subsection (a), thereby restoring the applicable Column 2 rate of duty on all products imported from the country.

SEC. 505. MARKET DISRUPTION.

The purpose of this section is to provide more easily satisfied criteria for determining whether injury to a domestic industry has occurred due to imports from countries which are granted most-favored-nation treatment under this title.

The section provides for a Tariff Commission investigation when a petition is filed or otherwise initiated under section 201 with respect to imports from countries which receive most-favored-nation treatment under this title. The Tariff Commission shall determine whether imports of the article from the country receiving most-favored-nation treatment are causing or are likely to cause material injury to a domestic industry producing like or directly competitive articles, and whether market disruption as defined in section 201(f)(3) exists with respect to these imports.

An affirmative finding by the Tariff Commission shall be treated as an affirmative determination under section 201(b) for purposes of providing import relief under section 203. However, the President may adjust by means of tariff increases or quotas the imports from the country in question without taking action on imports from other sources.

SEC. 506. EFFECTS ON OTHER LAWS.

This section requires that the provisions and actions taken under this title be reflected periodically in general headnote 3(e) to the Tariff Schedules of the United States.

It should be noted that section 706 repeals the prohibition against imports of seven furs and skins which are products of the Soviet Union or the People's Republic of China. Section 706 also repeals the Johnson Act which prohibits individuals, private corporations, associations, or partnerships from extending loans or purchasing or selling securities to foreign countries which are in default in the payment of their obligations to the United States. Congress amended the Act in 1945 to exempt from its provisions any nation which is a member of the "World Bank" and the International Monetary Fund. In practice the Johnson Act applies to the Soviet Union and all East European countries except Yugoslavia, which is a member of the IMF and the "World Bank," and Bulgaria, which is not considered in default of its obligations under the Act.

TITLE VI.—GENERALIZED SYSTEM OF PREFERENCES

Title VI provides authority to the President for ten years to extend generalized tariff preferences to imports from developing countries.

The basic authority provides for duty-free treatment on articles determined eligible from beneficiary developing countries. Preferential treatment will not apply to imports of an article from a particular developing country if that country supplies 50 percent of the total value of United States imports or $25 million of the article to the United States during a representative period, unless the President determines that non-application of preferential treatment would not be in the national interest.

The authority applies specifically to semi-manufactures or manufacturers but selected other products may also receive preferential treatment. Articles will be determined eligible under the procedures applicable to the negotiation of a tariff concession, including public hearings and a Tariff Commission investigation to determine the anticipated impact on domestic producers. Preferences cannot be granted on articles which are or subsequently become subject to import relief measures or national security actions.

The President may modify, withdraw, suspend or limit preferential treatment at any time on any article or to any country, but he cannot establish an intermediate preferential duty between zero and the most-favored-nation rate. With respect to affirmative Tariff Commission findings of import injury on eligible articles, the President may terminate the preferential treatment without raising the most-favored-nation rate.

Preferences cannot be granted to countries which do not receive most-favored-nation treatment, or to any country which grants preferences to other developed countries ("reverse" preferences) unless the country provides satisfactory assurances that it will eliminate such preferences before January 1, 1976. The President is required to suspend or withdraw preferences from countries which fail to terminate reverse preferences by this date and from countries which cease to receive most-favored-nation treatment.

SEC. 601. PURPOSES.

Section 601 sets forth the purpose of this title, namely to promote the United States national interest by enabling the United States to participate with other developed countries in granting generalized tariff perferences on imports from developing countries. Tariff preferences would apply mainly to imports of semi-manufactured and manufactured products from developing countries. The purpose of the generalized system of tariff preferences is to encourage the economic development of developing countries through increased access to the markets of developed countries.

SEC. 602. AUTHORITY TO EXTEND PREFERENCES.

This section authorizes the President to provide duty-free treatment for any eligible article designated under section 603 imported from any developing country which qualifies as a beneficiary under section 604. This authority constitutes a specific exception to the most-favored-nation principle under section 407 of this Act.

In addition to the restrictions imposed by sections 603 and 604, the President is required before taking such action to have due regard for the purpose of this title outlined in section 601, the anticipated impact of tariff preferences on domestic producers of competitive products, and the extent to which other major developed countries are making

a comparable effort to assist developing countries through generalized tariff preferences.

The granting of generalized non-discriminatory preferential treatment by developed countries to exports of developing countries is authorized under the GATT in the form of a waiver of the most-favored-nation provision in Article I, under the terms of Article XXV. The waiver recognizes that generalized preferences do not constitute an impediment to most-favored-nation tariff reductions, and notes the view of developed countries that generalized preferences are temporary in nature and do not constitute a binding commitment. The waiver includes arrangements for the notification and review of any generalized tariff preference schemes and consultation procedures if such preferences appear to unduly impair trade benefits under the GATT to any member.

SEC. 603. ELIGIBLE ARTICLES.

Section 603 outlines the procedures and criteria for determining products which may be eligible for duty-free preferential treatment under this title.

Subsection (a) requires that, prior to granting duty-free treatment under section 602 on any article, the President must publish and furnish to the Tariff Commission a list of articles which may be designated eligible articles for this purpose. The procedures specified in sections 111 through 114 must be followed prior to granting preferential treatment, including a Tariff Commission investigation to determine the anticipated effect on domestic industry, and public hearings. The list of articles under consideration for eligibility may be revised from time to time. It should be noted that the title itself does not contain a list of excepted articles or other restrictions on the application of preferences to specific articles, except as provided under subsection (c).

Subsection (b) requires that eligible articles be imported directly from a beneficiary developing country in order to qualify for duty-free entry. In addition, the sum of the cost or value of materials produced in a beneficiary developing country plus the direct costs of processing operations performed in a beneficiary developing country shall equal or exceed the percentage of the appraised value of the article at the time of its entry into the United States which the Secretary of the Treasury prescribes by regulation. The percentage shall be uniform for all products and all countries. The Secretary will also determine what constitutes "direct costs" of processing operations performed in a beneficiary developing country, including the treatment of executive compensation, and will establish regulations governing direct importation.

Subsection (c) prohibits the President from designating as eligible any article which is subject to any import relief measures under other Acts or section 203 of this Act, or which is subject to national security action under section 232 of the Trade Expansion Act. It further provides for the automatic withdrawal of preferential treatment on any article which subsequently becomes subject to import relief or national security actions under this or other Acts. The President may redesignate articles as eligible when such actions cease to apply.

Subsection (d) authorizes the President, in acting on an affirmative finding from the Tariff Commission of injury on an eligible article

under section 201, to terminate the preference (restore the most-favored-nation rate of duty) to beneficiary developing countries, in lieu of any change in the most-favored-nation rate applied to non-beneficiary countries or any other import relief action permitted under section 203 in response to such a finding.

SEC. 604. BENEFICIARY DEVELOPING COUNTRY.

This section outlines criteria for determining which developing countries may be beneficiaries of duty-free preferential treatment on eligible articles.

Subsection (a) permits the President to designate any country a beneficiary developing country, except countries which are specifically ineligible under subsection (b). The President must take into account five considerations in making the designation: (1) the purpose of the title outlined in section 601; (2) whether the country has indicated its desire to be designated a beneficiary; (3) the level of economic development of the country; (4) whether other major developed countries are extending generalized tariff preferences to the country; and (5) whether the country has expropriated the property of United States nationals in violation of international law. No one of these considerations is individually controlling on the President.

Subsection (b) stipulates that no country which is not receiving most-favored-nation treatment can be designated a beneficiary of preferential treatment. It further provides that no country which grants tariff preferences on products of other developed countries may receive preferences unless the country provides satisfactory assurances to the President that it will eliminate these "reverse" preferences before January 1, 1976.

SEC. 605. LIMITATIONS ON PREFERENTIAL TREATMENT.

Subsection (a) provides the President authority to modify, withdraw, suspend, or limit at any time the application of preferential treatment on any product or with respect to any country. In taking such action, the President shall consider the factors outlined in section 602 and the criteria for designating beneficiary countries in section 604(a). The President cannot, however, establish an intermediate preferential rate of duty (between zero and the most-favored-nation rate) on any article.

Subsection (b) requires the President to withdraw or suspend preferential treatment from any country which ceases to receive most-favored-nation treatment, and from any country which has not or will not eliminate preferences granted to other developed countries before January 1, 1976.

Subsection (c) provides that duty-free preferential treatment shall not apply to a particular article from a particular beneficiary developing country if that country has supplied 50 percent of the total value or over $25 million of United States imports of the article on an annual basis over a representative period. The President is not required to withdraw or suspend preferential treatment under this subsection, however, if he determines such action would not be in the national interest. The specific criteria in this "competitive need" formula represent a maximum cutoff point which does not preclude the President from withdrawing or suspending preferential treatment in cases where a developing country supplies a smaller amount or percentage of

United States imports of the article. The President may restore preferential treatment at a subsequent date under his basic authority to extend preferences provided in section 602.

This "competitive need" formula is designed to provide an express basis for the withdrawal or suspension of preferential treatment in those cases where it can no longer be justified on grounds of promoting the development of an industry in a particular developing country. This authority also enables the President to withhold the initial granting of preferential treatment to a particular developing country which has already demonstrated its competitiveness in a particular article. It is not intended that this authority be used as an additional import relief measure for individual domestic industries.

Subsection (d) provides that tariff preferences granted under this title will not affect duties on coffee imported into Puerto Rico imposed by the legislature of Puerto Rico under the authority of the Tariff Act of 1930, as amended.

SEC. 606. DEFINITIONS.

For the purposes of this title, "country" is defined to include dependent territories, areas (regions of countries not designated as such for purposes of the title), and associations of countries. It also includes an insular possession or trust territory of the United States. The President will determine which countries will be treated as "developed countries," taking into account their per capita gross national product, living standards, and other appropriate economic factors. "Major developed countries" are defined as OECD member countries which account for a significant percentage of world trade.

SEC. 607. EFFECTIVE PERIOD OF PREFERENCES.

Preferential treatment granted under this title must be terminated after ten years or after December 31, 1984, whichever is earlier, unless an extension is authorized by Congress.

TITLE VII.—GENERAL PROVISIONS

SEC. 701. AUTHORITIES.

Although the President has general authority to delegate functions under section 301 of Title 3, United States Code, subsection (a) makes clear the full power of the President to delegate his authority under this Act to the heads of appropriate agencies.

Subsection (b) is identical to section 401 of the Trade Expansion Act, except that it omits the reference to rates of compensation for expenses incurred by individuals. It provides authority to the head of any government agency to delegate any of his functions under this Act to the head of any other agency; to prescribe rules and regulations, and to procure temporary or intermittent services of experts, consultants, or organizations to the extent necessary to perform functions under this Act, subject to certain standard conditions.

SEC. 702. REPORTS.

This section revises section 402 of the Trade Expansion Act to correspond to the changes made in this Act.

Subsection (a) provides for an annual report to the Congress by the President on the trade agreements program and on import relief

and adjustment assistance to workers. The report shall include, for example, information relating to new trade negotiations and changes made in duties, nontariff barriers and other distortions of trade; extension or withdrawal of most-favored-nation treatment; actions with respect to generalized tariff preferences on imports from developing countries; and measures taken to obtain the removal of foreign trade restrictions on United States exports, and their results.

Subsection (b) provides for a factual report by the Tariff Commission to the Congress on the operation of the trade agreements program at least once a year.

SEC. 703. TARIFF COMMISSION.

This section is identical to section 403 of the Trade Expansion Act.

Subsection (a) provides that the Tariff Commission may conduct preliminary investigations, determine the scope and manner of its proceedings, and consolidate its proceedings.

Subsection (b) provides that, in performing functions under this Act, the Tariff Commission may exercise any authority granted to it under any other Act.

Subsection (c) provides that the Tariff Commission shall keep informed at all times concerning the operation and effect of provisions relating to duties or other import restrictions of the United States contained in trade agreements.

SEC. 704. SEPARABILITY.

Section 704 is identical to section 404 of the Trade Expansion Act.

It is a standard separability provision designed to insure that the invalidity of any one provision of this Act will not affect the validity of the remainder of the Act.

SEC. 705. DEFINITIONS.

This section defines a number of terms used in this Act and is identical in substance with section 405 and paragraphs (6) and (7) of section 256 of the Trade Expansion Act.

Paragraph (1) provides that the term "agency" includes any United States agency, department, board, instrumentality, commission, or establishment, or any corporation wholly or partly owned by the United States.

Paragraph (a) defines the term "duty" to include the rate and form of any import duty, including tariff rate quotas. Where the modification of a rate of duty requires the subdivision of an existing classification, such subdivision is to be regarded as part of the act of modification.

Paragraph (3) defines the term "other import restriction" to include a limitation, prohibition, charge, or exaction other than a duty, imposed on importation or imposed for the regulation of imports.

Paragraph (4) provides that the term "firm" includes virtually any kind of legal entity, such as individual proprietorships, partnerships, and joint ventures. This definition is concerned with the legal form of "firm" and does not relate to the kind of activity in which the firm may be engaged.

Paragraph (5), which is based on section 405(4) of the Trade Expansion Act, defines the phrase "directly competitive with," for purposes of articles which are subject to a petition for import relief or

adjustment assistance. The definition encompasses articles competitive at an earlier or later stage of processing as well as like articles in the same stage of processing. An unprocessed article will be regarded as an article at an earlier stage of processing. The term "earlier or later stage of processing" contemplates that the article will remain substantially the same during various stages of processing and not be wholly transformed into a different article.

Paragraph (6) provides that a product of a country or area is an article which is the growth, produce, or manufacture of such country.

Paragraph (7) makes clear that the term "modification," as applied to any duty or other import restriction, includes its elimination.

Paragraph (8) defines the term "existing" without the specification of any date, when used with respect to matters relating to entering into or carrying out trade agreements or other actions authorized by this Act, as existing on the day on which such trade agreement is entered into or such action is taken. When referring to a rate of duty, the term refers to the nonpreferential rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing in Column 1 of the Tariff Schedules of the United States on such day.

Paragraph (9) defines the term "ad valorem equivalent" as meaning the ad valorem equivalent of a specific rate, or the ad valorem equivalent of the specific rate plus the ad valorem rate in the case of combined rates. The ad valorem equivalent will be determined by the President on the basis of the value of imports of the article during a representative period. In determining the value of imports, the President shall utilize the standards of valuation under sections 402 and 402a of the Tariff Act of 1930 applicable to the article during the representative period.

SEC. 706. RELATION TO OTHER LAWS.

Subsection (a) amends the second and third sentences of section 2(a) of the Act to amend the Tariff Act of 1930 (the 1934 trade agreements legislation) to continue in effect the relation of trade agreements to section 336 of the Tariff Act of 1930 (equalization of costs of production) and to the third paragraph of section 311 of that Act (relating to flour manufactured from imported wheat in a bonded manufacturing warehouse).

Subsection (b) is designed to insure the uninterrupted operation under section 501(a) of this Act of any action taken by the President under section 231 of the Trade Expansion Act.

Subsection (c) amends section 242 of the Trade Expansion Act (Interagency Trade Organization) by changing the references to various sections of that Act to the corresponding sections of this Act.

The following sections of the Trade Expansion Act are repealed by subsection (d):

Section 202 (Low-Rate Articles), which is no longer necessary;

Sections 211, 212, and 213 (Special Provisions Concerning the European Economic Community) which are no longer necessary;

Sections 221, 222, 223, and 224 (Requirements Concerning Negotiations) which are replaced by chapter 2 of title I of this Act;

Section 225 (Reservation of Articles from Negotiations), which has been replaced by section 406 of this Act;

Section 226(Transmission of Agreements to Congress), which has been replaced by section 122 of this Act;

Section 231 (Products of Communist Countries or Areas), which has been replaced by section 501 of this Act;

Section 252 (Foreign Import Restrictions), which has been replaced by section 301 of this Act;

Section 253 (Staging Requirements), which has been replaced by section 102 of this Act;

Section 254 (Rounding Authority), which has been replaced by section 102(c) of this Act;

Section 255 (Termination), which has been replaced by sections 408 and 409 of this Act.

Section 256(1), (2), and (3) (Definitions), which have been eliminated as being unnecessary;

Sections 301 and 302 (Tariff Commission Investigations and Reports and Presidential Action Thereafter), which have been replaced by sections 201 and 202 of this Act;

Sections 311 through 338 (Adjustment Assistance for Firms and Workers), which have been replaced by sections 221 through 245 of this Act with respect to workers;

Section 361 (Adjustment Assistance Advisory Board) which has been eliminated as being unnecessary;

Section 401 (Authorities) which has been replaced by section 701 of this Act;

Section 402 (Reports) which has been replaced by section 702 of this Act;

Section 403 (Tariff Commission) which has been replaced by section 703 of this Act;

Section 404 (Separability) which has been replaced by section 704 of this Act;

Section 405(1), (3), (4), and (5) (Definitions) which have been eliminated as being unnecessary.

Subsection (e) insures that references in other laws (except the Trade Expansion Act of 1962 and the Trade Agreements Extension Act of 1951) to section 350 of the Tariff Act of 1930 and to agreements and proclamations thereunder, will also refer to this Act, unless clearly precluded by the context.

Subsection (f) repeals the prohibition against imports of seven furs and skins, the products of the Soviet Union or the Peoples Republic of China.

Subsection (g) repeals the Johnson Debt Default Act which prohibits private persons from making loans to countries which are in default in the payment of their obligations to the United States.

Subsection (h) repeals section 350(a)(6) of the Tariff Act of 1930, the termination provision replaced by section 408 of the Act.

SEC. 707. CONSEQUENTIAL CHANGES IN THE TARIFF SCHEDULES.

This section expressly recognizes the desirability of embodying in the Tariff Schedules of the United States the substance of relevant provisions of this Act and of other Acts affecting import treatment and actions taken thereunder so that the Tariff Schedules will reflect and be consistent with current law and actions thereunder. For example, the provision could be made for the inclusion of new parts to

the Appendix to the Tariff Schedules to embody temporary duty modifications or increases resulting from actions taken under section 405 (suspension of import barriers to restrain inflation) or section 401 (balance of payments authority), as well as for reflection of the tariff preferences for developing countries.

SEC. 708. SIMPLIFICATION AND MODIFICATION OF THE TARIFF SCHEDULES.

This section provides the President limited authority to modify or amend the Tariff Schedules of the United States, upon recommendations of the Tariff Commission, for the purpose of simplifying or clarifying the Tariff Schedules.

Modifications or amendments may include the establishment of new classifications, the abolition of existing classifications, or the transfer of particular articles from one classification to another. No such action, however, may result in any modification of any rate of duty or other import restriction by more than one percent ad valorem (or ad valorem equivalent) unless annual imports of the article involved did not exceed $10,000 in each of the immediately preceding ten years.

The President may put into effect such limited tariff modifications even in the absence of a reclassification if he determines that such action will contribute to the simplification or clarification of the Tariff Schedules. However, this authority cannot be used to adopt a revised tariff nomenclature in place of the Tariff Schedules.

Before making recommendations to the President the Tariff Commission shall publish in the Federal Register a notice of any proposed modification of the Tariff Schedules and shall provide an opportunity for interested parties to present their views to the Commission.

The Tariff Commission shall keep the effect of modifications under observation for a period of five years. The Commission shall report to the President any substantial increase in the imports of such articles. If the President determines that his action resulted in a substantial increase in imports which has resulted or is likely to result in injury to the domestic industry producing a like or directly competitive article, he shall terminate the modification of the duty or other import restriction. The President may also at any time terminate, in whole or in part, any action taken under this section.

○